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## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION A. GENERAL PROVISIONS

#### 1. SCOPE

This section sets forth general systems, policies and procedures related to operation of the Senior Executive Service in the Department of Veterans Affairs.

#### 2. REFERENCES

- a. 5 U.S.C. chapter 21, chapter 23, subchapter II of chapter 31 and subchapter II of chapter 43.
- b. 5 CFR Part 214

#### 3. DEFINITIONS

a. **Senior Executive Service (SES).** The SES is a separate service, distinct from the competitive service, the excepted service and the personnel system established under chapter 73 of title 38 United States Code for certain employees in the Veterans Health Administration. Individuals in the SES are covered by a personnel management system applicable to SES positions as defined below. (5 U.S.C. 2101a, 2102(a)(1)(C), 2103(a))

b. **Senior Executive Service Position.** Subject to the numerical limitation of SES positions allocated to the VA and the exclusions set forth in paragraph 4 below, a position must be designated as an SES position when it is:

- (1) not specifically excepted by statute or by the President;
- (2) not required to be filled by a Presidential appointment by and with the advice and consent of the Senate;
- (3) classifiable at or above the GS-16 level of the General Schedule or an equivalent position;
- (4) not above Executive Level IV of the Executive Schedule; and
- (5) held by an individual who:
  - (a) directs the work of an organizational unit;
  - (b) is held accountable for the success of one or more specific programs or projects;

(c) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals;

(d) supervises the work of employees other than personal assistants; or

(e) otherwise exercises important policy-making, policy-determining or other executive functions. (5 U.S.C. 3132(a)(2) and 5 C.F.R. 214.201)

c. **Senior Executive.** An individual appointed to the Senior Executive Service under a career, noncareer, limited term or limited emergency appointment.

#### 4. EXCLUSIONS

a. Positions which meet the above criteria but whose incumbents are appointed under authorities contained in 38 U.S.C. ch. 73 are excluded from the Senior Executive Service.

b. GS-16, GS-17, and GS-18 positions in the Board of Contract Appeals allocated by the Secretary for Federal Procurement Policy under Public Law 95-563 (Contract Disputes Act of 1978) are excluded from the Senior Executive Service.

#### 5. POLICY

a. **Administration.** The Senior Executive Service shall be administered in a manner which is consistent with law, OPM regulation and departmental policy and which is responsive to the goals and objectives of the department.

b. **Merit System Principles.** Senior Executives are subject to and protected by the merit system principles and prohibited personnel practices defined in 5 U.S.C. 2301 and 2302.

c. **General Employment.** The general employment policies set forth in chapter 300 of MP-5, part 1, are applicable to employment actions involving SES positions unless modified by policies outlined in this chapter or in applicable law or OPM regulation.

#### 6. APPROVING AUTHORITY

a. **The Secretary** or designee shall determine the allocation of SES positions among all VA organizational elements. Unless specifically modified in subsequent sections of this chapter or other issuances, the Secretary retains prior approval authority for all actions involving SES positions and their incumbents.

b. **The Inspector General** is the approving authority for all career appointments to SES positions established by the Secretary within the Office of the Inspector General and for other actions specified in this chapter.

## 7. POSITION DESCRIPTIONS

a. **Current Descriptions.** A current written description of the duties and responsibilities assigned to each Senior Executive Service position shall be maintained by the Deputy Assistant Secretary for Human Resources Management. This description shall be used:

(1) for developing the qualification standards for the SES position; and

(2) for establishing performance requirements in conjunction with each Senior Executive's performance appraisal.

### b. Responsibilities

(1) Supervisors are responsible for assuring that each position description under their jurisdiction is current and accurate. At a minimum, the position description must be reviewed and, if necessary, revised when a new Senior Executive is to be assigned, and when the Senior Executive's performance requirements are being established at the beginning of a performance appraisal period.

(2) The Deputy Assistant Secretary for Human Resources Management is responsible for assuring that the position is classifiable at or above the GS-16 level in the General Schedule or is an equivalent position. (See par. c(2) below.)

(3) The Chairman of the VA Executive Resources Board shall approve position descriptions for SES positions which have been authorized by the Secretary.

### c. Requirements

(1) The position description shall include:

(a) a concise statement of the position's duties, responsibilities, and supervisory relationships; and reflect the broad functional areas assigned to the position.

(b) identification of the position as general or career reserved;

(c) certification that the position would be classified at or above GS- 1 6 in the General Schedule or is an equivalent position; and

(d) certification that the position meets the managerial criteria required by 5 U.S.C. 3132(a)(2) and described in paragraph 3b(5) of this section.

(2) An evaluation statement, prepared prior to final approval of the position description, must indicate how the position supports placement in the SES in terms of the criteria established in section 3b above.

## **8. REPORTS AND RECORDS**

### **a. Centralized Records**

(1) Except for merit staffing records maintained for the Departmental Executive Resources Boards, agency records on SES actions and Employee Performance Folders for all Executives shall be maintained by the Office of Human Resources Management. All actions involving SES positions and appointees which require (a) the Secretary's approval, (b) the Inspector General's approval or (c) submission to OPM (Office of Personnel Management) for approval or information must be submitted through the Office of Human Resources Management.

(2) Merit staffing records for positions under the purview of the VHA or VBA Executive Resources Boards shall be maintained by the respective Boards.

**b. Reports to OPM.** The Deputy Assistant Secretary for Human Resources Management shall assure that report requirements established by the Office of Personnel Management are met in a timely fashion. Reporting requirements are listed in FPM Chapter 291, subchapter 2.

## **9. FEDERAL REGISTER NOTICES**

The Deputy Assistant Secretary for Human Resources Management shall assure that notice of the names of Performance Review Board members is published in the Federal Register before recommendations are made on SES performance appraisals and awards. (5 U.S.C. 4314(c)(3) and (4))

## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION B. SES BOARDS

#### 1. SCOPE

In accordance with the requirements of 5 U.S.C. 3393(b) and 4314(c), this section establishes three ERBs (Executive Resources Boards) and four PRBs (Performance Review Boards) to oversee and conduct various activities related to management of the VA's executive human resources. The specific responsibilities of the ERBs and the PRBs are set forth in this section, in other sections of the MP-5, part 1, chapter 920 and in directives issued by the Secretary, Under Secretary for Health, Under Secretary for Benefits and Inspector General.

#### 2. REFERENCES

- a. 5 U.S.C. 3393(b) and (c), 3393a, 4314(c), and 5384(c).
- b. 5 CFR 317.504, 412.107, 430.307.

#### 3. EXECUTIVE RESOURCES BOARDS

a. **Statutory and Regulatory Authorities.** By law and OPM (Office of Personnel Management) guidance, agencies are required to establish ERBs to:

- (1) "Conduct the merit staffing process for career appointees" (5 U.S.C. 3393(b)); and
- (2) Oversee "planning and management of the agency executive and management development program(s)." (5 CFR 412.107)

#### b. Membership

(1) **VA Executive Resources Board.** The members of the VA ERB are the incumbents of the following positions:

##### **Chairperson**

Assistant Secretary for Human Resources and Administration

##### **Vice Chairperson**

Deputy Assistant Secretary for Human Resources Management

**Members**

Deputy Under Secretary for Health (or designee)  
Deputy Under Secretary for Benefits (or designee)  
Director, Office of Operations Support, National Cemetery System  
Deputy General Counsel  
Deputy Inspector General  
Vice Chairman, Board of Veterans Appeals  
Deputy Assistant Secretary for Equal opportunity

One senior executive from each Office of Assistant Secretary, except the Assistant Secretary for Human Resources and Administration

Other executives, including executives occupying positions in the field designated by the Assistant Secretary for Human Resources and Administration (with the concurrence of the appropriate Under Secretary), and approved by the Secretary

(2) **VHA (Veterans Health Administration) Executive Resources Board.** The members of the VHA ERB are the incumbents of the following positions:

**Chairperson**

Deputy Under Secretary for Health

**Co-Chairperson**

Chief Network Officer

**Members**

Chief of Staff  
All Network Directors  
Secretary's representative

Other VHA executives designated by the Under Secretary for Health and approved by the Secretary

Director, Management Support Office (ex-officio, non-voting member)

(3) **VBA (Veterans Benefits Administration) Executive Resources Board.** The members of the VBA ERB are the incumbents of the following positions:

**Chairperson**

Deputy Under Secretary for Benefits (or other VBA ERB member designated by the Under Secretary for Benefits)

### Members

All VA Headquarters senior executives

All Area Directors

Secretary's representative

Other VBA executives designated by the Under Secretary for Benefits and approved by the Secretary

(4) Specific ERB membership and any subsequent major changes must be concurred in by the Assistant Secretary for Human Resources and Administration and approved by the Secretary. Minor changes in the membership of any of the ERBs required because of the retirement, transfer, etc., of an individual member may be approved by the Chairman, VA ERB.

(5) The membership of the ERBs will include women and minority executives.

(6) The Chairperson of each ERB shall determine whether other Department executives shall be permitted to act for ERB members and under what circumstances such acting assignments will be permitted.

### c. Functions

(1) Each ERB is responsible for overseeing the merit staffing process which must precede career appointment to an SES position under its purview. This includes developing a Candidate Evaluation Plan in accordance with the requirements of section D of this chapter, approving qualifications standards, reviewing the qualifications of candidates and making written recommendations concerning such candidates to the nominating official and approving authority.

(2) The VA ERB shall also oversee the following activities:

(a) Departmentwide Executive and Management Development Program. This includes recommending the VA-wide executive and management development programs for the Secretary's approval, evaluating applicants for the VA SES Candidate Development Program (CDP) and making recommendations for selection to the Secretary, certifying that individual candidates have successfully completed the SES CDP, and coordinating the Departmentwide sabbatical program in accordance with section I of this chapter.

(b) **SES Position Management.** This includes coordinating the biennial SES position review and advising the Secretary on the Department's SES position requirements in accordance with the provisions of section C of this chapter.

(c) **SES Performance Appraisal/Awards Program.** This includes reviewing Departmentwide policies and practices related to the performance appraisal/awards programs and making appropriate recommendations to the Secretary; and, in accordance with section F,

paragraph 11a(6), of this chapter, submitting recommendations to the Chairperson of the VA PRB (Performance Review Board) on the operating procedures the VA PRB will use to process and prepare recommendations on performance appraisals and related actions.

(d) **SES Recertification Process.** This includes reviewing and consolidating recertification actions proposed by the PRBs, monitoring and evaluating the departmentwide recertification process, and taking other actions in accordance with the provisions of section E of this chapter.

(3) The Chairperson of the VA ERB shall advise the Secretary on the above activities and shall take necessary actions to assure that the programs operate efficiently, effectively and consistent with law, OPM regulation and Department policy. The Board may, on its own initiative, review Departmentwide policies relating to these and other SES activities and make appropriate recommendations to the Secretary.

(4) The VHA and VBA ERBs shall direct or coordinate other SES or executive human resources management activities as directed by their respective Under Secretary or other department policy.

#### d. Operations

(1) **Procedures.** The Chairperson of each ERB shall establish procedures to ensure that the functions assigned to the Board are carried out effectively, efficiently and consistent with law, OPM regulation and Department policy.

#### (2) Committees

(a) The Chairperson of each ERB shall establish any standing or ad hoc committees deemed necessary to facilitate Board operations.

(b) An **Executive Development Committee** will be established to facilitate the VA ERB's executive development responsibilities. The chairperson of this Committee shall be the Assistant Secretary for Human Resources and Administration or another ERB member designated by him/her. The members shall be the following:

- Deputy Under Secretary for Health (or designee)
- Deputy Under Secretary for Benefits (or designee)
- Director, Office of Operations Support, NCS
- Deputy Assistant Secretary for Equal Opportunity
- ERB members from the Office of the Assistant Secretary for Management and the Office of the Assistant Secretary for Policy and Planning
- Other executives designated by the Chairperson and approved by the Secretary

(c) A **Position Management Committee** will be established to facilitate the VA ERB's position management responsibilities. The chairperson of this committee shall be the Assistant

Secretary for Human Resources and Administration or another ERB member designated by him/her. The members shall be the following ERB members:

- Deputy Under Secretary for Health (or designee)
- Deputy Under Secretary for Benefits (or designee)
- Deputy Inspector General (or designee)
- Director, Office of Operations Support, NCS
- ERB member from the Office of the Assistant Secretary for Management
- Other executives designated by the Chairperson and approved by the Secretary

(3) **Meetings and Minutes.** As necessary, the Chairperson of each ERB shall call meetings to conduct the business of the Board. Summary minutes will be prepared for all ERB meetings.

(4) **Office of Human Resources Management** will:

(a) Provide technical advice and assistance on ERB policies and procedures to the Secretary, Chairperson of the VA ERB and other Department officials;

(b) Provide technical and administrative support to the VA ERB; and

(c) Review and assure the technical correctness of all ERB actions submitted for approval of the Secretary or Inspector General.

#### 4. PERFORMANCE REVIEW BOARDS

a. **Statutory and Regulatory Authorities.** By law, agencies are required to establish PRBs to:

(1) "Make recommendations to the appropriate appointing authority of the agency relating to the performance of senior executives in the agency;" (5 U.S.C. 4314(c)(1))

(2) Make recommendations on SES performance awards (5 U.S.C. 5384(c)) and

(3) Make recommendations as to whether the performance of career executives demonstrates the standard of excellence required for recertification. (5 U.S.C 3393a)

b. **Membership**

(1) **VA Performance Review Board.** The Assistant Secretary for Human Resources and Administration will serve as Chairperson of the VA PRB and at least three additional members will be named by the Secretary for a specific appraisal period. Generally, the members of the VA PRB will be selected from the membership of the VA ERB. However, if necessary, for such reasons as to ensure that more than one-half of the VA PRB members are SES career appointees, to prevent members from acting on recommendations involving their own ratings and associated

awards, or to increase diversity on the Board, etc., other Department officials may also be appointed to the VA PRB.

(2) **VHA Performance Review Board.** The members of the VHA PRB are the incumbents of the following positions:

**Chairperson**

Deputy Under Secretary for Health

**Co-Chairperson**

Chief Network Officer

**Members**

Chief of Staff

All Network Directors

Other executives designated by the Under Secretary for Health and approved by the Secretary  
Secretary's representative

Director, Management Support office (ex-officio, non-voting member)

(3) **VBA Performance Review Board.** The members of the VBA PRB are the incumbents of the following positions:

**Chairperson**

Deputy Under Secretary for Benefits (or other VBA PRB member designated by the Under Secretary for Benefits)

**Members**

One or more Service Directors or equivalent in VA Central Office

One or more Area Directors

Other executives designated by the Under Secretary for Benefits and approved by the Secretary

Secretary's representative

(4) **OIG (Office of Inspector General) Performance Review Board.** The Secretary or Deputy Secretary shall name at least three executives, (including a chairperson) familiar with the Inspector General function to serve on the OIG PRB for a specific rating period. These individuals will be selected from the roster of PCIE (President's Council on Integrity and Efficiency) members designated to serve as PRB members. The Inspector General may suggest the names of executives to serve on the OIG PRB.

(5) To the extent possible, the membership of the PRBs will include minority and women executives.

(6) The names of actual and potential members of the PRBs for a specific rating period will be designated by the appropriate official and submitted by September 1 each year through the Deputy Assistant Secretary for Human Resources Management (054) to the Secretary for approval.

(7) The names of actual and potential PRB members for a specific rating period will be published in Federal Register before any action is taken by the PRBs to process or recommend performance ratings or awards. (5 U.S.C. 4314(c)(4))

(8) With approval of the Secretary, any member of any of the VA Performance Review Boards may substitute for any other member of any PRB, as long as the individual's name was published in the Federal Register for that rating period.

**c. Functions**

(1) In accordance with policies set forth in section E of this chapter, each PRB will consider supervisory officials' recommendations on the recertification of career executives under their respective purviews and recommend recertification actions to the Secretary or Inspector General.

(2) In accordance with policies set forth in sections F, G, and H of this chapter, each PRB shall oversee the processing of performance appraisals for the executives under its purview and make recommendations on performance ratings and related matters to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits or the Inspector General. This includes:

(a) Reviewing the initial ratings recommended by rating officials, including any comments made by executives or higher level officials; conducting further reviews as necessary; and making recommendations with regard to final ratings;

(b) Reviewing and making recommendations with regard to performance awards; and

(c) Coordinating the review of SES pay adjustments proposed in conjunction with the performance appraisal process.

NOTE: Executives under the purview of the PRBs include Senior Executives, individuals appointed under authority of 38 U.S.C. 7306 who are not physicians or dentists, Presidential appointees who elect to continue eligibility for SES performance awards under the provisions of 5 U.S.C. 3392(c), and physician Network Directors, Medical Center Directors Clinical Service Managers and Headquarters Title 38 Executives appointed under Title 38 U.S.C. Not all of these executives, however, are eligible for SES performance awards or pay adjustments. See sections G and H of this chapter for eligibility.

(3) The VA PRB shall also be responsible for:

(a) Reviewing the recommendations of the Under Secretary for Health and the Under Secretary for Benefits on performance ratings and SES pay adjustments and submitting final recommendations on all non-OIG executives to the Secretary. (As the Inspector General approves performance ratings and pay adjustments for OIG executives, review by the VA PRB is not required prior to approval. However, the VA PRB will consider the performance appraisals and ratings for OIG executives in preparing its recommendations on performance awards for them.)

(b) Reviewing the recommendations of the Under Secretary for Health, the Under Secretary for Benefits and the IG on performance awards, consolidating these recommendations with the VA PRB's recommendations on other executives and submitting final recommendations to the Secretary. (The recommendations of the Under Secretary for Health, the Under Secretary for Benefits and IG which are submitted to the VA PRB shall reflect consideration of the recommendations of their respective PRBS. The recommendations of the VHA, VBA and OIG PRBs shall be made available for review of the VA PRB, upon request.)

**d. Operations**

(1) **Procedures.** In accordance with section F, paragraph 11a(6), of this chapter, the Chairperson of the VA PRB will approve the written operating procedures each PRB will use to process and prepare recommendations on performance appraisals and related actions. The VHA, VBA, and OIG PRBs will each propose procedures for their own use; and the VA PRB will propose the procedures to be used by the VA PRB.

(2) **Committees**

(a) The Chairperson of each PRB shall establish any standing or ad hoc committees deemed necessary to facilitate Board operations.

(b) The Chairperson of the VA PRB shall establish, as necessary, an SES Incentive Awards Panel to review recommendations for SES Incentive Awards and make appropriate recommendations to the Secretary.

(3) **Meetings and Minutes.** As necessary, the Chairperson of each PRB shall call meetings to conduct the business of the Board. At any meeting dealing with appraisal or recertification of career executives, more than one-half of the members present must be career appointees (5 U.S.C. 4314(c)(5)). Summary minutes will be prepared for all PRB meetings.

(4) **Office of Human Resources Management** will:

(a) Provide technical advice and assistance on PRB policies, procedures and actions to the Secretary, Chairperson of the VA PRB and other Department officials;

(b) Provide technical and administrative support to the VA PRB; and

(c) Review and assure the technical correctness of PRB actions submitted for approval of the Secretary or the Inspector-General.

## **5. QUALIFICATIONS REVIEW BOARDS**

In accordance with 5 U.S.C. 3393(c), the OPM establishes QRBs (Qualifications Review Boards) to certify the executive qualifications of candidates for initial appointment as career Senior Executives. VA executives will serve on the QRBs as requested by OPM.



## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION C. SES POSITION MANAGEMENT

#### 1. SCOPE

This section contains policies and procedures related to the management of SES (Senior Executive Service) positions. This includes the allocation of SES slots by the OPM (Office of Personnel Management) and their distribution within the department and the establishment or abolishment of individual SES positions.

#### 2. POLICY

The objective of VA's SES position management program is to support accomplishment of the department mission through effective and efficient management of executive personnel resources. SES position management activities will be conducted in accordance with relevant law and regulations and without discrimination for reason of race, religion, color, sex, national origin, age, non-disqualifying physical or mental handicap or lawful political affiliation. Actions proposed or approved under this section are not subject to appeal or grievance.

#### 3. REFERENCES

- a. 5 U.S.C. 3132, 3133, 3135, 5104, 5108
- b. 5 CFR Part 214

#### 4. DEFINITIONS

a. **SES Slot.** A unit of the total SES position allocation authorized for the department by OPM.

b. **SES Position.** A position which meets the definition in section A, paragraph 3b and has been approved for placement in the SES by the Secretary. Dual incumbency of a single SES position is not permitted; i.e., no more than one SES appointee can occupy a single SES position.

c. **Active Established Position.** An approved SES position, either filled or vacant, which counts against the total number of committed SES slots.

d. **Temporarily Canceled Position.** An approved SES position which is vacant and is not counted against the total number of committed SES slots.

e. **Interim Position.** An additional identical position established by the Secretary when the Senior Executive in the original position is on extended leave pending retirement. Interim positions do not count against the total number of committed SES slots.

## 5. PROGRAM RESPONSIBILITIES

a. **The Secretary** has overall responsibility for SES position management within the department including the distribution of SES slots and the establishment or abolishment of individual SES positions.

### b. **The VA ERB (Executive Resources Board)**

- (1) Oversees the department's SES position management program; and
- (2) Advises the Secretary on the department's SES position requirements.

### c. **The Chairperson of the VA Executive Resources Board**

- (1) Approves SES position descriptions for positions which have been authorized by the Secretary;
- (2) Authorizes the temporary cancellation and reactivation of SES positions and
- (3) Chairs the ERB Position Management Committee established in section B, paragraph 3d(2)(c).

### d. **The ERB Position Management Committee**

- (1) Coordinates the annual SES position review discussed in paragraph 12; and
- (2) Advises the Secretary on other SES position management matters, including the allocation of SES slots and the establishment, abolishment, or temporary cancellation of individual SES positions.

### e. **The Deputy Assistant Secretary for Human Resources Management**

- (1) Provides technical advice and assistance to department officials on SES position management activities;
- (2) Provides technical and administrative support to the VA ERB;
- (3) Monitors and maintains records on the establishment, abolishment and temporary cancellation of SES positions to assure conformance with allocations authorized by OPM ;and
- (4) Submits required OPM reports on SES position actions.

f. **Administration heads, Assistant Secretaries, and office directors who report directly to the Secretary or Deputy Secretary** monitor the SES position requirements for their organizations and submit recommendations in accordance with this section.

## 6. SES POSITION DESCRIPTIONS

a. **Requirements.** A current written description of the duties and responsibilities assigned to each Senior Executive Service position will be maintained on Optional Form 8, Position Description. The position description will include:

(1) A concise description of the broad functional areas assigned to the position and a statement of the position's duties, responsibilities, and supervisory relationships;

(2) Certification that the position would be classified at or above GS- 16 in the General Schedule;

(3) Certification that the position meets the managerial criteria required by 5 U.S.C. 3132(a)(2);

(4) Identification of the position as general or career reserved; and

(5) Identification of the competitive group to which the position is assigned under section K, this chapter.

### b. Responsibilities

(1) Supervisors are responsible for assuring that each SES position description under their jurisdiction is current and accurate. At a minimum, the position description must be reviewed and, if necessary, revised in conjunction with the annual review of SES positions described in paragraph 12.

(2) The Deputy Assistant Secretary for Human Resources Management will advise and assist department officials on the development of position descriptions, prepare evaluation reports on proposed position descriptions, and maintain records of approved position descriptions.

(3) The Chairperson or Vice Chairperson of the VA ERB will approve position descriptions for SES positions which have been authorized by the Secretary.

## 7. SES POSITION DESIGNATIONS

### a. Career Reserved Positions

(1) A career reserved position is a position which may only be filled by a career appointee and to which it is justifiable to restrict appointment to career employees in order to ensure impartiality, or the public's confidence in the impartiality, of the Government.

(2) Career reserved positions include positions whose principle duties involve day-to-day operational responsibilities, without responsibility for or a substantial involvement in the determination or public advocacy of the major controversial policies of the department in the following occupational disciplines:

- (a) Adjudication and appeals;
- (b) Audit and inspection;
- (c) Civil or criminal law enforcement or compliance;
- (d) Contract administration and procurement;
- (e) Grants administration; and
- (f) Investigations and security matters.

(3) Scientific, highly technical or professional positions and other positions may also be designated as career reserved if determined that their duties and responsibilities require impartiality or the public's confidence of impartiality (5 U.S.C. 3132(b)(1); 5 CFR 214.402).

(4) The OPM determines the minimum number of career reserved positions which VA must maintain or exceed. The Office of Human Resources Management will monitor the number of career reserved positions established in the department and assure that the minimum requirement is met.

b. **General Position.** A general position is an SES position which may be filled with a career appointee, noncareer appointee, limited term appointee or limited emergency appointee.

c. **Approval and Change of Position Designation.** In conjunction with the establishment of an SES position, the Secretary will designate it as career reserved or general. The designation of an established position may not be changed from career reserved to general, or from general to career reserved without the prior approval of the OPM. (5 CFR 214.403)

## 8. ALLOCATION OF SES SLOTS

a. Before the close of each even-number calendar year, the Secretary will submit a written request to OPM on VA's SES position requirements for each of the 2 succeeding fiscal years. This request will take into consideration information and recommendations developed by the VA ERB Position Management Committee.

b. OPM considers the department's request and authorizes SES position allocations for each fiscal year. The number of active established SES positions within the department cannot exceed the SES position allocation authorized by OPM.

c. The Office Human Resources Management is responsible for monitoring the number of active established positions and assuring that the allocations approved by OPM are not exceeded.

## **9. ESTABLISHING SES POSITIONS**

a. The Secretary, or designee, retains the authority to approve the establishment of SES positions.

b. Requests for new positions are to be submitted for the Secretary's approval through the Deputy Assistant Secretary for Human Resources Management and the Chairperson, VA ERB. Requests may be submitted at any time by the employing Administration head, Assistant Secretary or office director or by the VA ERB Position Management Committee in conjunction with the annual SES position review.

c. Requests shall include:

(1) A proposed position description:

(2) Justification for placing the position in the SES in terms of department priorities and the criteria set forth in section A, paragraph 3B; and

(3) Whether or not an additional SES slot will be required. If an additional slot is not required, the SES position to be abolished or temporarily canceled should be identified.

## **10. ABOLISHING SES POSITIONS**

a. The Secretary, or designee, retains the authority to approve the abolishment of SES positions.

b. Recommendations to abolish SES positions are to be submitted through the Deputy Assistant Secretary for Human Resources Management and the Chairperson of the VA ERB. Such recommendations may be submitted at any time by the employing Administration head, Assistant Secretary or office director or by the VA ERB Position Management Committee in conjunction with the annual SES position review.

c. Recommendations to abolish an SES position are appropriate when the position's duties and responsibilities no longer meet the criteria for placement in SES or when the position is no longer needed because of organizational changes.

## 11. TEMPORARILY CANCELLING SES POSITIONS

a. The temporary cancellation of a vacant SES position is appropriate under the following conditions:

- (1) The position continues to meet the criteria for placement in the SES;
- (2) Management expects to fill the position at the SES level in the future; and

(3) The slot allocated to the position is required for another SES position which will be filled before the temporarily canceled position.

(b) Requests to temporarily cancel or reactivate SES positions require the concurrence of the Deputy Assistant Secretary for Human Resources Management and approval of the Chairperson of the VA ERB

## 12. ANNUAL SES POSITION REVIEW

a. By June 30 of each year Administration heads, Assistant Secretaries and office directors who report directly to the Secretary or Deputy Secretary will review their SES position management activities and report to the VA ERB Position Management Committee. Reports will include:

- (1) Certification that all SES position descriptions are current and accurate;
- (2) Recommendations on the establishment and abolishment of individual SES positions; and
- (3) In even-numbered calendar years, an estimate of the SES slots required for each of the 2 fiscal years beginning after such calendar year.

b. By August 31 of each year, the VA ERB Position Management Committee will complete a review of the department's SES position management activities and report to the Secretary. The ERB report will include:

- (1) Recommendations on the establishment and abolishment of individual SES positions; and
- (2) As appropriate, a summary of projected SES position requirements. (In even-number calendar years this summary should include information and recommendations for the Secretary to consider in preparing the request to OPM described in par. 8a.)

c. The ERB Position Management Committee will coordinate the SES position review and prepare recommendations for consideration of the Secretary.

d. As necessary, the Chairperson of the VA ERB may modify the target dates set forth in subparagraphs a and b above.

## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION D. APPOINTMENT, REASSIGNMENT, TRANSFER, REINSTATEMENT, DETAIL, AND GUARANTEED PLACEMENT

#### 1. SCOPE

This section sets forth policies and procedures governing the staffing of Senior Executive Service (SES) positions.

#### 2. POLICY

a. The objective of the VA's SES staffing program is to support accomplishment of the department mission through the recruitment and placement of well qualified individuals for SES positions.

b. Management retains the right to determine whether an SES position will be filled through the career appointment of an individual identified through merit competition or through a noncompetitive action such as noncareer appointment, reassignment, transfer, reinstatement, or appointment of a certified graduate of an SES Executive Development Program. Initiation of the merit staffing process does not limit this management right in any way. (*NOTE: Only career Senior Executives can be placed in SES career reserved positions.*)

c. SES staffing operations will be conducted in accordance with relevant laws and regulations and without discrimination for reason of age, sex, race, color, religion, national origin, marital status, non-disqualifying physical handicap, or lawful political affiliation.

#### 3. REFERENCES

a. 5 U.S.C. 2108, 3109, 3132, 3134, 3327, 3392, 3393, 3394, 3395, 3592, 3593, 3594, 5723, and 5752.

b. 5 CFR Part 317; Part 359; 771.206.

#### 4. DEFINITIONS

a. **Approving Authority.** The individual authorized to approve SES placement actions. (As set forth in sec. A, par. 6, the Secretary or designee is the approving authority for all actions involving Senior Executives outside of the Office of the Inspector General (OIG), and the Inspector General is the approving authority for actions involving OIG executives.)

b. **Career Appointment.** Appointment of an individual whose executive qualifications were approved by a Qualifications Review Board following completion of an SES Executive Development Program or selection through the merit staffing process described in paragraph 10c.

Career appointments can be made to SES career reserved or general positions (5 U.S.C. 3132(a)(4) and 3393). Following their initial career appointment, and in accordance with law, regulation, and department policy, career appointees may be reassigned, transferred, or reinstated without further competition or OPM approval.

c. **Noncareer Appointment.** A noncompetitive appointment to an SES general position (5 U.S.C. 3132(a)(7), 3134, 3394 and 3592(c)).

d. **Limited Term Appointment.** A noncompetitive, nonrenewable appointment for a term of 3 years or less to an SES general position the duties of which will expire at the end of such term (5 U.S.C. 3132(a)(5), 3134 and 3394; 5 CFR Pt. 317, Subpt. F).

e. **Limited Emergency Appointment.** A noncompetitive, nonrenewable appointment not to exceed 18 months to an SES general position established to meet a bona fide, unanticipated, urgent need (5 U.S.C. 3132(a)(6), 3134 and 3394; 5 CFR Pt. 317, Subpt. F).

f. **Reassignment.** The placement of a Senior Executive in another SES position within the Department (5 U.S.C. 3395).

g. **Transfer.** The voluntary movement of a Senior Executive between SES positions in different agencies (5 U.S.C. 3395).

h. **Reinstatement.** The noncompetitive placement of a former career Senior Executive in an SES position (5 U.S.C. 3593; 5 CFR pt. 317, Subpt. G).

i. **Detail.** The temporary movement of an employee within, into, or out of the SES. For purposes of pay and benefits, the employee continues to occupy the position from which detailed.

j. **Guaranteed Placement.** The entitlement of certain career Senior Executives to placement in a continuing civil service position at GS/GM-15 or above (or an equivalent position) upon removal from the SES (5 U.S.C. 3594; 5 CFR Pt. 359, Subpt. G).

## 5. PROGRAM RESPONSIBILITIES

a. The Secretary or designee approves appointments, reassignments, transfers, reinstatements, details, and removals involving SES positions and/or appointees outside OIG.

b. The Inspector General approves appointments, reassignments, transfers, reinstatements, details and removals involving SES positions and/or appointee within OIG.

c. The ERB's (Executive Resources Boards), established in section B, oversee the merit staffing process which precedes initial career appointment to an SES position. As directed by the Secretary, Under Secretary for Health, Under Secretary for Benefits, the ERB's may also advise these officials on other SES placement actions

d. Nominating Officials (Deputy Secretary, Chief of Staff, administration heads, Assistant Secretaries, Deputy Assistant Secretaries, office heads who report to the Office of the Secretary) initiate requests for approval of SES placement actions. Requests initiated by Deputy Assistant Secretaries under the supervision an Assistant Secretary require concurrence of the Assistant Secretary.

e. Deputy Assistant Secretary for Human Resources Management

(1) Provides technical advice and assistance on SES staffing policies and procedures;

(2) Provides technical and administrative support to the VA ERB;

(3) Monitors activities of the VHA and VBA ERB's to ensure that SES merit staffing activities comply with law, Office of Personnel Management (OPM) regulation and department policy;

(4) Reviews and concurs in staffing actions proposed for approval of the Secretary or Inspector General; and

(5) Submits required OPM reports on SES staffing actions and maintains necessary department records.

## 6. GENERAL PROVISIONS

a. **Veterans Preference.** Applicants for, or members of the SES are not entitled to veterans preference (5 U.S.C., 2108(3))

b. **Experts or Consultants.** SES positions may not be filled under the authority of 5 U.S.C. 3109(b) relating to the temporary or intermittent employment of experts or consultants (5 U.S.C. 3109(c)).

c. **Citizenship.** Unless prohibited by the current Appropriations Act, noncitizens will not be barred from consideration for employment in the SES.

d. **Grievances and Appeals.** Personnel actions approved under this section are not subject to grievance or appeal. (5 CFR 771.206; MP-5, pt. 1, ch. 771, app. A). However, allegations of prohibited personnel practice or discrimination may be filed with the Special. Counsel of the Merit Systems Protection Board (MSPB). In addition, the Federal discrimination complaints system (see ch. 3, pt. 1, VA Manual MP-7) applies equally to the SES.

e. **Travel.** Payment of travel expenses for pre-employment interviews and for travel and transportation to an executive's first official duty station is authorized in accordance with the policies and procedures set forth in MP-5, part I, chapter 571.

## 7. QUALIFICATIONS STANDARDS

### a. General Requirements

(1) A qualifications standard will be established for each SES position or group of identical positions in the department.

(2) Any criterion included in a qualifications standard will be job related. The standards shall not include any criterion prohibited by law or regulation (e.g., age, sex, race, color, religion, national origin, marital status, non-disqualifying physical handicap or lawful political affiliation), and they shall not impose a requirement for a minimum length of experience (5 U.S.C. 3392).

(3) Any individual placed in an SES position must meet the position's qualifications standard as determined in writing by the approving authority (5 U.S.C. 3393 and 3394).

### b. Content. Each SES qualifications standard must include:

(1) A brief summary of the duties of the position.

(2) The professional/technical KSAO's (knowledge, skills, abilities, and other characteristics) required for fully successful performance in the position. Minimum educational, licensure, or registration requirements beyond those authorized for similar positions at GS-15 and below may not be applied.

(3) The managerial/executive KSAO's required for successful performance in the position. (If relevant to the position, the position's managerial KSAO's should reflect the five activity areas described in app. A.)

(4) If appropriate, desirable KSAO's which contribute to successful performance and can be used as a basis for making qualitative distinctions among candidates.

### c. Development and Approval

(1) At the time a new position is established or an existing position is substantially altered, the office in which the position is located will initiate development or revision of its qualifications standard. Qualifications standards should be developed by management officials familiar with the duties, responsibilities and qualification requirements of the position with the technical advice and assistance of personnel staff.

(2) The job relatedness of each qualifications standard will be attested to by the Secretary, Deputy Secretary, Chief of Staff, administration head, Assistant Secretary, Deputy Assistant Secretary, office head who reports to the office of the Secretary or an appropriate designee. Qualifications standards will be concurred in by the Deputy Assistant Secretary for Human Resources Management and approved by the Chairperson or Vice Chairperson of the appropriate Executive Resources Board.

(3) The Office of Human Resources Management is responsible for providing technical advice and assistance in the development of qualifications standards and maintaining approved standards for all SES positions.

## 8. NONCAREER APPOINTMENTS

a. **Restrictions.** A noncareer appointment may only be made to an SES general position for which the appointee meets the qualifications standard. Noncareer appointees serve at the pleasure of the approving authority and can be removed at any time.

b. **Noncareer Appointment Authorities.** The number of noncareer appointments within the Government and within the department is limited by 5 U.S.C. 3134, and the Office of Personnel Management controls the allocation of appointment authorities to agencies. Agencies must request noncareer appointment authorities from OPM on a case-by-case basis. Noncareer appointment authorities revert to OPM upon departure of the incumbent of a position filled by the use of this authority.

c. **Appointment Process.** The Deputy Assistant Secretary for Human Resources Management will provide advice and assistance to the approving authority on the appointment of noncareer senior executives. This includes preparation of necessary appointment papers and the request to OPM for a noncareer appointment authority.

## 9. LIMITED APPOINTMENTS

### a. Restrictions and Rights

(1) A limited term or limited emergency appointment may only be made to an SES general position for which the appointee meets the qualifications standard.

(2) A limited term or limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of such types of appointment in any Government agency.

(3) Both limited term and limited emergency appointees serve at the pleasure of the approving authority and can be removed at any time.

(4) An employee who accepted a limited appointment without a break in service in the same agency as the one in which the employee held a career, career-conditional, or equivalent appointment in a permanent civil service position outside the SES shall be entitled to placement in his/her former position or a position of like status, tenure, and grade when the limited appointment is terminated for reasons other than misconduct, neglect of duty or malfeasance (5 CFR 317.605).

b. **Authorization of Limited Appointment Authorities.** The number of limited emergency and limited term appointments in all agencies is limited by 5 U.S.C. 3134 and the Office of Personnel Management controls the allocation of appointment authorities to agencies. Before an individual is appointed as a limited term or limited emergency appointee, prior OPM approval of an appointment authority is required.

c. **Appointment Process.** The Deputy Assistant Secretary for Human Resources Management will provide advice and assistance to the approving authority on limited term and limited emergency appointments to the Senior Executive Service. This includes preparation of necessary appointment papers and the request to OPM for a limited appointment authority.

## 10. INITIAL CAREER APPOINTMENTS

a. **General.** With the exception of those executives who converted to the SES on July 13, 1979, all SES career appointees must be selected through merit competition and have their executive qualifications approved by an OPM Qualifications Review Board (QRB). This competition and approval may be in conjunction with a Department Executive Development Program (EDP) or in accordance with the procedures in subparagraph c. New SES career appointees are also required to complete a 1-year probationary period.

b. **Noncompetitive Appointment of Certified EDP Graduates.** Individuals whose executive qualifications have been certified by an OPM QRB following completion of a department EDP may be noncompetitively appointed to an SES position for which they are technically qualified. Before a decision is made to initiate the SES merit staffing process to fill a vacancy, the nominating official should consider the selection of a technically qualified EDP graduate.

### c. Merit Staffing Requirements and Process

#### (1) Staffing Request

(a) Requests to initiate the SES merit staffing process are to be submitted to Deputy Assistant Secretary for Human Resources Management (052B) by the supervising administration head, Assistant Secretary, Deputy Assistant Secretary, or office head who reports to the office of the Secretary. Requests from Deputy Assistant Secretaries under the supervision of an Assistant Secretary require concurrence of the Assistant Secretary. Requests should:

1. Certify that the position description and qualifications standard are current and accurate or include proposed revisions.
2. Identify the proposed recruitment area. (Options are either all qualified individuals within the civil service or all qualified individuals whether or not within the civil service.)
3. Specify the announcement period. (Minimum period is 14 calendar days.)

(b) Initiation of the SES merit staffing process does not preclude the nominating official from recommending the selection of a current career Senior Executive, a QRB certified graduate of an SES EDP or an individual with SES reinstatement eligibility.

**(2) Recruitment and Vacancy Announcements**

(a) The Office of Human Resources Management (OHRM) will coordinate the development, printing, and distribution of SES vacancy announcements. OHRM will also request the listing of vacancies in OPM's biweekly report, "Senior Executive Service Vacancy Announcements" and coordinate the distribution of this OPM report within the VA.

(b) SES vacancy announcements must be open for a minimum of 14 calendar days. To ensure consideration, applications must be *received* by the closing date of the vacancy announcement.

(c) Vacancy announcements will include the following information:

1. Position title, location and salary range.
2. Opening and closing dates.
3. Recruitment area.
4. A summary of duties.
5. Qualification requirements as set forth in the approved qualifications standard.
6. A summary of other requirements (e.g., QRB approval, probationary period, financial disclosure).
7. A summary of the method used to evaluate applicants.
8. Description of application materials and procedures.
9. The name and telephone number of a contact person for additional information.
10. An equal employment opportunity statement.

(d) Recruitment for each SES vacancy shall be reasonably extensive and systematic and include a positive effort to identify qualified minorities and women.

1. At a minimum, all SES announcements must be open to all qualified applicants from within the civil service. This includes employees of the executive, judicial, and legislative branches of the Federal government and employees of the U.S. Postal Service. Members of the military and D.C.

Government employees are not within the civil service for SES staffing purposes. As appropriate, the recruitment area may be expanded to include qualified applicants whether or not within the civil service.

2. The minimum distribution for all vacancy announcements is postings throughout VA Headquarters; distribution to VA field facilities; distribution to Federal agencies, Offices of the U.S. Employment Service, etc., via OPM's Vacancy Report; and mailings to QRB certified graduates of VA's Executive Development Program who have not been placed in SES or Medical Center Director positions.

(e) An SES vacancy announcement can be reissued at any time if it does not appear that an adequate number of highly qualified candidates applied or if, because of delays in the staffing process, it is likely that the pool of possible candidates has expanded. An announcement must be reissued if a selection from it is to be proposed 9 months after the closing date of the announcement.

(3) **Candidate Evaluation.** Title 5, United States Code, section 3393(b) requires agency ERB's to review the executive qualifications of candidates for SES career appointments and make written recommendations concerning such candidates.

(a) Generally, all applicants (including current career Senior Executives, QRB certified graduates of SES EDP's and individuals with SES reinstatement eligibility) will be evaluated if they submit the required materials by the closing date of the announcement. However, current career Senior Executives, QRB certified graduates of SES EDP's and individuals with SES reinstatement eligibility may be noncompetitively considered for a position without formal evaluation if they do or do not submit an application before the closing date of the announcement.

(b) Consistent with law, OPM regulation, and department and administration policy, each of VA's ERB's will develop a Candidate Evaluation Plan which documents the procedures to be used to evaluate SES candidates and prepare recommendations for the nominating and approving officials. This Plan, which must be approved by the Chairperson of the VA ERB, will:

1. Define the respective roles of personnel staff, subject matter experts and the ERB in the evaluation process.

2. Describe the procedures to be used to process applications, including the acknowledgment of their receipt.

3. Describe the methods to be used to differentiate among candidates on the basis of the KSAO's in the position's qualifications standard. This includes a description of the rating and ranking tools to be used.

(c) The appropriate Executive Resources Board, or a panel of at least three ERB members, will certify the list of best qualified candidates to be forwarded to the nominating official and the

approving authority. This certified list will include a brief rationale as to why the certified candidates were considered to be the "best qualified."

**(4) Candidate Nomination and Approval**

(a) The nominating official may recommend the appointment of any of the candidates on the "Best Qualified List" or he/she may recommend that the vacancy be filled through a noncompetitive placement such as reassignment, transfer, reinstatement or appointment of a QRB certified graduate of an SES Executive Development Program.

(b) Nomination packages will be forwarded to the approving authority through the Deputy Assistant Secretary for Human Resources Management. The package will include the Best Qualified List and the following material on the nominee:

1. VA Form 5-4065, Request for Approval of Personnel Action Centralized to the Secretary.
2. The nominee's application.
3. A complete security form (VA Form 0235, Security Check for Candidate Requiring Approval of the Secretary).
4. VA Form 5-4652, Request for Personnel Action (for Central Office positions only).

(c) Candidates who are nominated for an SES career appointment should not be informed of the nomination until the action has been approved.

(d) The approving authority may approve the appointment of the recommended nominee, select another of the candidates on the Best Qualified List or select an individual eligible for noncompetitive placement. Upon approval by the approving authority, the selected candidate may be notified; however, other applicants and the general public should not be informed of the selection until a QRB has approved the selected candidate's executive qualifications. All applicants will be formally notified when QRB approval of the selected candidate has been obtained.

**(5) QRB Certification**

(a) Before initial appointment as a career Senior Executive, a candidate's executive qualifications must be certified by a QRB on the basis of one of the following criteria:

1. Demonstrated executive experience;
2. Successful completion of an OPM-approved EDP; or
3. Special or unique qualities indicating the likelihood of executive success.

(b) Executive qualifications are assessed in terms of competency in five executive qualifications associated with SES level jobs. The five executive qualifications and the major competencies associated with them are outlined in appendix A of this section.

(c) The Office of Human Resources Management will provide technical advice and assistance on the preparation of requests for QRB certification and coordinate the submission of cases to OPM. Cases must be submitted for QRB review within 9 months of the closing date of the vacancy announcement.

**(6) Appointment**

(a) A candidate's career appointment to the SES can be effected on the date of the QRB approval of his/her executive qualifications or at a later date mutually acceptable to management and the candidate. Generally, the appointment should be effected at the beginning of a pay period. If the length of time between the QRB approval and the effective date of the appointment is excessive (e.g., longer than 9 months), the merit staffing process should be rerun.

(b) If an executive is approved by a QRB based on merit staffing for one position, the agency may not appoint the individual to another position.

**(7) Safeguarding and Releasing Information**

(a) Merit staffing files, including candidate applications and assessments, will be maintained in a storage system which meets the physical security requirements set forth in MP-5, part I, chapter 297.

(b) Upon request, all applicants and potential applicants must be provided basic information on SES merit staffing procedures and the position for which recruitment is being conducted. This includes a copy of the applicable Candidate Evaluation Plan, position description, qualifications standard, and vacancy announcement.

(c) Applicants are also entitled to know who was selected for the position, whether they met the minimum qualifications requirements and whether they were included on the list of best qualified candidates referred to the nominating official and approving authority.

(d) Requests for other non-routine information regarding the evaluation of candidates and the staffing of the position should be processed in accordance with the Freedom of Information and Privacy Acts.

**(8) Merit Staffing Documentation.** For 2 years after an announced vacancy is filled or until completion of an OPM evaluation of the staffing action (whichever is earlier) the following records will be maintained:

- (a) Identification of the applicable Candidate Evaluation Plan and the names of ERB members, screening committee members, and personnel specialist(s) responsible for the staffing action.
  - (b) Copy of qualifications standard and vacancy announcement.
  - (c) Copy of OPM Vacancy Report announcing the vacancy.
  - (d) List of organizations and addresses to which the vacancy announcement was distributed and the distribution rationale.
  - (e) The application for each candidate.
  - (f) Written evaluations of candidates prepared by personnel specialist(s), screening committees, or the ERB.
  - (g) The Best Qualified List of candidates, including the ERB's written recommendations on these candidates.
  - (h) A copy of the VA Form 5-4065 approving the selected candidate.
  - (i) Correspondence with applicants or related to them or the staffing process.
  - (j) Any complaints to the ERB and the ERB findings.
- d. Probationary Period (5 CFR Pt. 359, subpt. D)

(1) An individual's career appointment to the Senior Executive Service shall become final only after he/she has successfully completed a 1-year probationary period. The probationary period is completed at the end of the executive's normal tour of duty preceding the anniversary date of his/her appointment.

(2) At the end of the eighth month of the probationary period, VA Form 5-97, Notice of Pending Personnel Action, will be generated by the PAID system. The executive's servicing Human Resources Management Office (052B) should forward this form to the Office of Human Resources Management for coordination of the probationary review. If the executive's performance and conduct are acceptable and retention as a career Senior Executive is recommended, the executive's supervisor will so certify on the VA Form 5-97 and return the completed form to the Office of Human Resources Management for filing in the executive's Official Personnel Folder (OPF). Even if VA Form 5-97 is not completed, the executive will acquire full career tenure in the SES unless removed before the end of the probationary period. Conversely, completion of a VA Form 5-97 does not negate the department's authority to remove an executive before completion of the probationary period.

(3) Prior to completion of the probationary period, an executive may be removed from the SES for unacceptable executive performance or conduct or conditions arising before appointment. Since removals are effective at midnight and probationary periods are completed at the end of a tour of duty, the effective date of an executive's removal should be no later than the day before the probation would be completed. The Secretary is the approving authority of recommendations to remove career Senior Executives outside the Office of Inspector General and the Inspector General is the approving authority for removals of executives in OIG.

(a) **Removal for Unacceptable Performance or Conduct.** An executive to be removed from the SES for unacceptable executive performance or conduct must be given a written notice at least 1 day prior to the effective date of the removal. This notice must show the effective date of the removal; state the inadequacies of the executive's performance or conduct; and state whether the executive is entitled to placement in accordance with paragraph 15, and if so, the position in which the executive will be placed.

(b) **Removal for Conditions Arising Before Appointment.** An executive proposed for removal for conditions arising before his/her SES career appointment must be given an advance notice stating the specific reasons for the proposed removal and given at least 7 calendar days to reply. A notice of proposed removal may be issued by the Deputy Assistant Secretary for Human Resources Management or the supervising administration head, Assistant Secretary, Deputy Assistant Secretary, or office head who reports to the Office of the Secretary. The approving authority will consider the proposed removal and the executive's response and issue a written decision stating the reasons for the decision; and, if removal is, approved, the effective date. When appropriate, the notice of decision shall state the executive's placement rights under paragraph 15 and identify the position in which the executive will be placed. The notice of decision shall be given to the executive at or before the time the action will be made effective.

c. **Restriction.** A removal from the SES under this paragraph may not be made effective within 120 days after the appointment of a new Secretary; or, if the position is in the Office of Inspector General, a new Inspector General.

d. **Appeals.** With the exception of alleged violation of the restriction discussed in subparagraph (c), removals from the SES during the probationary period are not subject to appeal to the MSPB.

## 11. REASSIGNMENTS

a. **Reassignment of Noncareer Appointees.** A noncareer appointee may be reassigned, at the pleasure of the approving authority, to any general position for which he/she is qualified (5 U.S.C. 3395(d)).

b. **Reassignment of Limited Appointees (5 CFR 317.604)**

(1) A limited emergency appointee may be reassigned, without further OPM authorization, to another SES general position established to meet a bona fide unanticipated, urgent need, except

that the appointee may not serve in one or more positions in the department under such appointment in excess of 18 months.

(2) A limited term appointee may be reassigned, without further OPM authorization, to another SES general position the duties of which will expire at the end of a term of 3 years or less, except that the appointee may not serve in one or more positions in the department under such appointment in excess of 3 years.

**c. Reassignment of Career Appointees**

(1) Subject to the restrictions described in subparagraphs (2), (3), and (4), career Senior Executives may be reassigned to any SES position for which qualified. A Senior Executive who receives an unsatisfactory performance rating must be reassigned to another SES position unless transferred from VA or removed from the SES. (5 U.S.C. 4314(b)(3))

(2) The involuntary reassignment of a career appointee is prohibited within 120 days after the appointment of a new Secretary or, if the position is in the Office of the Inspector General, a new Inspector General. This restriction does not apply to a required reassignment resulting from the formal performance appraisal process as discussed in section F or from any disciplinary action initiated before such appointment. (5 U.S.C. 3395(e))

(3) **Reassignment Within the Commuting Area (5 U.S.C. 3395(a)(2)(A)).** At least 15 days before the effective date of the reassignment, the approving authority or designee will provide the executive a written notice of the reassignment. This notice may be waived with the written consent of the executive involved.

**(4) Reassignment Outside the Commuting Area (5 U.S.C. 3395(a)(2)(B))**

(a) Prior to the initiation of a request to reassign a career executive outside his/her commuting area, the nominating official or designee shall consult with the executive on the reasons for, and the executive's preference with respect to the proposed reassignment. The request to reassign the executive should document this consultation.

(b) At least 60 days before the effective date of the reassignment, the approving authority or designee will provide the executive a written notice of the reassignment including a statement of the reasons for it. This notice may be waived with the written consent of the executive involved.

(5) **Failure to Accept a Directed Reassignment.** Failure to accept a directed reassignment is cause for removal under 5 U.S.C. 7543. An executive who is separated from the service for failure to accept reassignment outside the commuting area is eligible for severance pay under 5 U.S.C. 5595 or for discontinued service retirement under 5 U.S.C. 8336(d) if he/she meets the age and service requirements.

## 12. TRANSFERS

Career and noncareer Senior Executives may transfer from one agency to an SES position for which qualified in another agency. Such transfers require the consent of the appointee and approval of the receiving agency.

## 13. REINSTATEMENT

a. **General.** In accordance with the following paragraphs, a former career Senior Executive may be reinstated to an SES position for which qualified without regard to merit staffing requirements. An individual so reinstated becomes an SES career appointee.

b. **Voluntary Reinstatement.** An individual interested in SES career reinstatement to an SES position in the VA may apply directly to the department. The Department may reinstate the individual as an SES career appointee under the following conditions:

(1) The individual completed an SES probationary period under his/her last career appointment or was exempted from that requirement; and

(2) The individual's separation from his/her last SES career appointment was not a removal subject to 5 CFR Part 359, Subpart E; 5 CFR Part 752, Subpart F; 5 U.S.C. 1206; 5 U.S.C. 7532; or a resignation in lieu of removal under these sections of law and regulation.

c. **Directed Reinstatement.** A former SES career appointee who was appointed by the President to a civil service position outside the SES without a break in service and who left the Presidential appointment for reasons other than misconduct, neglect of duty or malfeasance is entitled to SES career reinstatement.

(1) Application for reinstatement under this paragraph must be made to OPM within 90 days after separation from the Presidential appointment.

(2) In accordance with 5 CFR 317.703(c), OPM will direct a Federal agency to reinstate the individual to an SES position for which the individual is qualified. (An additional SES space authority may be allocated for the reinstatement.) An agency must comply with an OPM reinstatement order as promptly as possible but not more than 30 days from the date of the order.

(3) An individual who declines an offer of reinstatement ordered by OPM is not entitled to further placement assistance. (5 CFR 317.703)

## 14. DETAILS

a. **Restrictions on Nonreimbursable Details.** Except under the circumstances described below, intra-agency and interagency details must be on a reimbursable basis

(1) A nonreimbursable intra-agency detail is permitted when the detail is:

(a) To a position covered by the same appropriation that covers the position from which detailed;

(b) To a position covered by a different appropriation but the detail involves a matter related to the loaning organization's appropriation and will aid it in accomplishing the purpose for which its appropriations are provided, or

(c) To a position covered by a different appropriation but, regardless of the purpose of the appropriation, the detail will have a negligible impact on the loaning organization's appropriation.

(2) A non-reimbursable interagency detail is permitted when the detail:

(a) Involves a matter related to the loaning agency's appropriation and will aid it in accomplishing the purpose for which the appropriations are provided; or

(b) Will have a negligible impact on the loaning agency's appropriation.

**b. Detail of a Senior Executive.** Subject to the restrictions in paragraph a, a Senior Executive may be detailed to any established position for which qualified or to "unclassified duties." Details may be approved for up to 1 year in 120-day increments. Non-reimbursable details authorized under subparagraphs (1)(c) or (2)(b) are limited to 120 days, with one 120-day extension. (*NOTE: Only career Senior Executives may be detailed to SES career reserved positions.*)

**c. Detail of Title 38 Executive to an SES Position.** Subject to the restrictions in paragraph a, an executive serving in an SES equivalent position under the title 38 personnel system may be detailed to an SES position for which qualified for up to 1 year, in 120-day increments.

**d. Detail of Career, Career Conditional or Equivalent Employee to an SES Position.** Subject to the restrictions in paragraph a, employee may be detailed to an SES position for which qualified for 120 days. Such details may be extended for an additional 120 days if the detailee is selected through competitive promotion procedures.

**e. Request and Approval.** The detail of employees within, into, or out of the SES requires concurrence of the Deputy Assistant Secretary for Human Resources Management and approval of the approving authority. In certain instances, extension of the time limits set forth in this paragraph may be approved by the Secretary or OPM.

## 15. GUARANTEED PLACEMENT

**a. Guaranteed Placement.** Guaranteed placement is the entitlement of certain career Senior Executives to placement in a continuing civil service position at GS-15 or above (or an equivalent position) upon removal from the SES. Placement of an appointee under these provisions shall not cause the separation or reduction in grade of any other employee.

**b. Placement Rights of Executive Removed During Probation**

(1) A Senior Executive who held a career, career conditional or equivalent appointment prior to his/her career SES appointment is entitled to guaranteed placement if removed from the SES during probation for reasons other than misconduct, neglect of duty, or malfeasance.

(2) The position in which the probationary executive is placed must be of tenure equivalent to that of the appointment held at the time of appointment to the SES and the appointee must meet its qualification requirements.

**c. Placement Rights of Executive Removed for Less Than Fully Successful Performance**

(1) A Senior Executive who has completed the SES probationary period and is removed from the SES for less than fully successful performance in accordance with the provisions of section F, paragraph 15b(1) is entitled to guaranteed placement.

(2) The appointee must meet the qualification requirements of the position to which assigned. In addition, if the Senior Executive held a career, career-conditional, or equivalent appointment prior to his/her career SES appointment, the position to which he/she is assigned must be of equivalent tenure to that position, unless the department does not have positions of equivalent tenure and/or the appointee is willing to accept a position having different tenure.

## APPENDIX A. EXECUTIVE QUALIFICATIONS

1. The final step in the merit staffing process leading to an initial SES career appointment is approval of the selected candidate's executive qualifications by an OPM Qualifications Review Board. QRB's assess candidate competence in five "core qualifications" which are common to most executive positions. While candidates do not necessarily need to possess the optimum level of competence in each core qualification, they must possess a sufficient breadth and depth of executive competence to be able to assume a variety of SES assignments.

2. The five executive core qualifications and the key characteristics associated with them are:

a. Leading Change - Encompasses the ability to develop and implement an organizational vision which integrates key national and program goals, priorities, values, and other factors. Inherent to it is the ability to balance change and continuity--to continually strive to improve customer service and program performance within the basic Government framework, to create a work environment that encourages creative thinking, and to maintain focus, intensity and persistence, even under adversity. Key characteristics associated with this core qualification are:

(1) Exercising leadership and motivating managers to incorporate vision, strategic planning, and elements of quality management into the full range of the organization's activities; encouraging creative thinking and innovation; influencing others toward a spirit of service; designing and implementing new or cutting edge programs/processes.

(2) Identifying and integrating key issues affecting the organization, including political, economic, social, technological, and administrative factors.

(3) Understanding the roles and relationships of the components of the national policy making and implementation process, including the President, political appointees, Congress, the judiciary, State and local governments, and interest groups, formulating effective strategies to balance those interests consistent with the business of the organization.

(4) Being open to change and new information; managing ambiguity; adapting behavior and work methods in response to new information, changing conditions, or unexpected obstacles, adjusting rapidly to new situations warranting attention and resolution.

(5) Displaying a high level of initiative, effort, and commitment to public service; being proactive and achievement-oriented; being self-motivated; pursuing self-development; seeking feedback from others and opportunities to master new knowledge.

(6) Dealing effectively with pressure; maintaining focus and intensity and remaining persistent, even under adversity; recovering quickly from setbacks.

b. Leading People – Involves the ability to design and implement strategies which maximize employee potential and foster high ethical standards in meeting the organization’s vision, mission, and goals. Key characteristics associated with this core qualification are:

(1) Providing leadership in setting the workforce’s expected performance levels commensurate with the organization’s strategic objectives; inspiring, motivating, and guiding others toward goal accomplishment; empowering people by sharing power and authority.

(2) Promoting quality through effective use of the organization’s performance management system (e.g., establishing performance standards, appraising staff accomplishments using the developed standards, and taking action to reward, counsel, or remove employees, as appropriate).

(3) Valuing cultural diversity and other differences; fostering an environment where people who are culturally diverse can work together cooperatively and effectively in achieving organizational goals.

(4) Assessing employees’ unique developmental needs and providing developmental opportunities which maximize employees’ capabilities and contribute to the achievement of organizational goals; developing leadership in others through coaching and mentoring.

(5) Fostering commitment, team spirit, pride, trust, and group identity; taking steps to prevent situations that could result in unpleasant confrontations.

(6) Resolving conflicts in a positive and constructive manner; this includes promoting labor/management partnerships and dealing effectively with employee relations matters, attending to morale and organizational climate issues, handling administrative, labor management, and Equal Employment Opportunity issues, and taking disciplinary actions when other means have not been successful.

c. Results Driven - Stresses accountability and continuous improvement. It includes the ability to make timely and effective decisions and produce results through strategic planning and the implementation and evaluation of programs and policies. Key characteristics associated with this core qualification are:

(1) Understanding and appropriately applying procedures, requirements, regulations, and policies related to specialized expertise; understanding linkages between administrative competencies and mission needs; keeping current on issues, practices, and procedures in technical areas.

(2) Stressing results by formulating strategic program plans which assess policy/program feasibility and include realistic short- and long-term goals and objectives.

(3) Exercising good judgment in structuring and organizing work and setting priorities; balancing the interests of clients and readily readjusting priorities to respond to customer demands.

(4) Anticipating and identifying, diagnosing, and consulting on potential or actual problem areas relating to program implementation and goal achievement; selecting from alternative courses of corrective action, and taking action from developed contingency plans.

(5) Setting program standards; holding self and others accountable for achieving these standards; acting decisively to modify standards to promote customer service and/or the quality of programs and policies.

(6) Identifying opportunities to develop and market new products and services within or outside of the organization; taking risks to pursue a recognized benefit or advantage.

d. Business Acumen - Involves the ability to acquire and administer human, financial, material, and information resources in a manner which instills public trust and accomplishes the organization's mission, and to use new technology to enhance decision making. Key characteristics associated with this core qualification are:

(1) Assessing current and future needs based on organizational goals and budget realities. Applying merit principles to develop, select, and manage a diverse workforce.

(2) Overseeing the allocation of financial resources; identifying cost-effective approaches; establishing and assuring the use of internal controls for financial systems.

(3) Managing the budgetary process, including preparing and justifying a budget and operating the budget under organizational and Congressional procedures; understanding the marketing expertise necessary to ensure appropriate funding levels.

(4) Overseeing procurement and contracting procedures and processes.

(5) Integrating and coordinating logistical operations.

(6) Ensuring the efficient and cost-effective development and utilization of management information systems and other technological resources that meet the organization's needs; understanding the impact of technological changes on the organization.

e. Building Coalitions/Communication - Involves the ability to explain, advocate and express facts and ideas in a convincing manner, and negotiate with individuals and groups internally and externally. It also involves the ability to develop an expansive professional network with other organizations, and to identify the internal and external politics that impact the work of the organization. Key characteristics associated with this core qualification are:

(1) Representing and speaking for the organizational unit and its work (e.g., presenting, explaining, selling, defining, and negotiating) to those within and outside the office (e.g., agency heads and other Government executives; corporate executives; Office of Management and Budget officials; Congressional members and staff; the media; clientele and professional groups); making clear and convincing oral presentations to individuals and groups, listening effectively and clarifying information; facilitating an open exchange of ideas.

(2) Establishing and maintaining working relationships with internal organizational units (e.g., other program areas and staff support functions); approaching each problem situation with a clear perception of organizational and political reality; using contacts to build and strengthen internal support bases; getting understanding and support from higher level management.

(3) Developing and enhancing alliances with external groups (e.g., other agencies or firms, State and local governments, Congress, and clientele groups); engaging in cross-functional activities; finding common ground with a widening range of stakeholders.

(4) Working in groups and teams; conducting briefings and other meetings; gaining cooperation from others to obtain information and accomplish goals; facilitating “win-win” situations.

(5) Considering and responding appropriately to the needs, feelings, and capabilities of different people in different situations; being tactful and treating others with respect.

(6) Seeing that reports, memorandums, and other documents reflect the position and work of the organization in a clear, convincing, and organized manner.

## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION E. RECERTIFICATION OF SENIOR EXECUTIVES

#### 1. SCOPE

a. This section sets forth the Department of Veterans Affairs' (VA's) plan for implementing the Senior Executive Service (SES) recertification process mandated by Public Law 101-194. In accordance with regulations, the plan was developed in consultation with the Department's career executives.

b. The plan was approved by the office of Personnel Management (OPM) on May 29, 1991.

#### 2. INTRODUCTION

a. The SES recertification process is designed to ensure that the performance of career appointees demonstrates the excellence needed to meet the goals of the Senior Executive Service.

b. The recertification process described in this section and the annual performance appraisal process described in Section F are complementary but separate. While the annual appraisal looks at how well the executive has met the specific standards for his or her position for the year, the recertification process looks at the executives performance over a period of 3 years. At the highest levels of Government management occupied by SES members, it often is not possible to fully judge the performance of an individual in as short a time span as 1 year since the impact of an executives activities may not show up until a later time.

#### 3. REFERENCES

a. 5 U.S.C. 3393a

b. 5 CFR 213.3202; 317.502; 317.504; 317.702; Subpart C of Part 359; 359.401; 359.701; 842.211; 842.503

#### 4. PROGRAM RESPONSIBILITIES

a. **Approval official** is the individual who acts on recommendations to recertify, conditionally recertify, or not recertify a career executive and on associated personnel actions. The Secretary is the approval official for actions involving executives outside the office of the Inspector General (OIG). The Inspector General is the approval official for actions involving OIG executives.

b. **The VA Executive Resources Board (ERB)**, established in Section B, will oversee the Departmentwide recertification process. This includes:

(1) Reviewing and consolidating Performance Review Board (PRB) recommendations on SES recertification and related actions that are forwarded for consideration by the Secretary or Inspector General.

(2) Issuing instructions on the development and implementation of performance improvement plans required for executives who are conditionally recertified.

(3) Monitoring and evaluating VA's recertification process and facilitating actions to correct program deficiencies and/or implement program improvements.

(4) Ensuring that corrective actions directed by OPM are implemented.

c. **The VA, OIG, Veterans Health Administration (VHA) and Veterans Benefits Administration (VBA) PRBS**, established in Section B, evaluate the career executives under their respective purviews and recommend recertification actions to the Secretary or the Inspector General. All PRB recommendations will be forwarded through the Chairman of the VA Executive Resources Board. Recommendations of the VHA and VBA Performance Review Boards will also be forwarded through the Under Secretary for Health or the Under Secretary for Benefits, as appropriate.

d. **Supervisory Official** is the individual who makes the initial recommendation as to whether an executive should be recertified, conditionally recertified, or not recertified. The supervisory official is the same individual who is responsible for recommending an executives performance rating under Section F.

e. **The Deputy Assistant Secretary for Human Resources Management** will:

(1) Provide technical advice and assistance on the recertification process.

(2) Provide technical and administrative support to the VA Executive Resources Board and VA Performance Review Board.

(3) Provide training to supervisory officials, PRB members, and other Department officials on the objectives and procedures of the recertification process.

(4) Ensure that career executives are provided a copy of VA's approved recertification plan.

(5) Maintain Employee Performance Folders.

(6) Submit required OPM reports on SES recertification actions and maintain necessary Department records.

## 5. RECERTIFICATION PERIOD

a. The initial recertification period for all VA executives, except certain non-physician Medical Center Directors noted in paragraph 5b, ended on September 30, 1991, coincident with the end of the annual performance appraisal period.

b. The initial recertification period for executives who occupied non-physician Medical Center Director positions on November 18, 1988, ended on November 18, 1991. (Non-physician Medical Center Directors were appointed under the title 38 personnel system until November 18, 1988. As such, they did not meet the 156-week length of service requirement until November 18, 1991.)

c. Subsequent recertification for all career executives will take place every third calendar year thereafter. September 30 will serve as the date for calculating the 156week employment period.

## 6. COVERAGE

a. SES career executives who have been continuously employed in the SES for 156 weeks preceding the end of the recertification period are subject to recertification. This period includes any service as an SES noncareer or limited appointee. It also includes service in any agency.

(1) If an individual is recertified in another agency and then transfers to VA during the calendar year, the individual is not subject to recertification in VA.

(2) If an individual transfers from another agency during the calendar year and no recertification decision was made in that agency, a recertification decision must be made in VA.

b. One or more breaks in SES service of a total of 6 months or less do not interrupt the 156 weeks of continuous employment. A break is defined as a time period during which the SES career executive was not officially counted against the Department's SES position allocation.

c. SES career executives who are on extended assignment or absence from their positions at the time of recertification are generally subject to recertification as long as they are officially occupying an SES position at the end of the recertification period as a career executive and meet the 156-week length of service requirement.

d. This recertification plan does not apply to SES noncareer or limited appointees. Nor does it apply to former SES career appointees who accepted Presidential appointments at Executive Level V or higher with Senate confirmation and elected to retain SES benefits. These individuals can be removed from their positions at any time if they fail to meet the required standard of excellence.

## 7. STANDARD FOR RECERTIFICATION

a. The career appointee must perform at the level of excellence expected of a senior executive. The term "excellence" as used in this policy is not synonymous with the "excellent" performance rating level defined in Section F, paragraph 3n (2). Excellence means that the executive has demonstrated over the recertification period that he or she has achieved excellence in:

(1) Planning for, substantially advancing, and attaining Presidential, agency, or organizational goals and objectives that require a sustained superior effort;

(2) Taking specific initiatives that advanced a major policy and/or significantly improved delivery of services;

(3) Taking the necessary actions to ensure the achievement of a quality product in a timely manner; and

(4) Making significant technical, scientific, or professional contributions.

b. Also, if applicable to the responsibilities of the senior executive, excellence is demonstrated by:

(1) Achieving substantial savings in the execution of programs under his or her direction;

(2) Maintaining the high quality and effectiveness of programs under his or her direction with reduced resources; and/or

(3) Providing strong leadership to enhance the development, utilization and achievements of subordinate personnel, including achievement of equal employment opportunity goals.

c. The following factors will be used as a measure of whether an executive has met the standard for recertification. (**Note:** Recertification recommendations and decisions may not be based solely on the basis of performance ratings.)

(1) The appointee's SES performance ratings for the 3 years immediately preceding the end of recertification period. (**Note:** SES career appointees do not necessarily have to have received annual performance ratings above Fully Successful to be recertified, nor do Fully Successful ratings guarantee recertification.)

(2) Any award or other recognition received by the appointee.

(a) This includes unsolicited written and oral commendations and compliments as well as awards from both inside the Government (e.g., Presidential Rank Awards and other incentive awards) and outside the government.

(b) Awards recognizing performance over a period of years that are received during the recertification period even though some of the achievements recognized may have occurred before the recertification period are included. Also included are awards received after the recertification period, but before the recertification determination, if the award recognizes performance that took place during the recertification period.

(3) Any developmental activities of the appointee.

(a) These include professional, educational, or self-development activities, including enhancement of leadership skills through military service.

(b) An executives workload, family situation, health, and professional commitments, as well as the amount of available funding and the stage of the executives career should be considered in deciding whether the executive has participated in professional development activities to an adequate degree.

(4) Significant accomplishments on task forces or Boards outside of program responsibilities.

(5) Reputation in field of expertise as reflected by speaking engagements, publications, and holding office in professional associations.

(6) Extraordinary efforts to promote cooperation between VA and other government agencies or the private sector.

## **8. RECERTIFICATION RECOMMENDATION AND DETERMINATION PROCEDURES**

### **a. Executive Documentation and Self-Assessment**

(1) Executives will be asked to complete part I of VA Form 0205, Senior Executive Service Recertification, and submit it to the supervisory official by October 7. If the executive does not submit this material, it will be completed by the supervisory official.

(2) At this time, the executive may also provide a 3-page written statement of accomplishments which relates to the standard for recertification.

### **b. Supervisory Official Recommendation**

(1) The supervisory official of the career appointee will submit to the appropriate Performance Review Board a recommendation as to whether the career appointee's performance justifies recertification as a senior executive. This recommendation will be documented on part 2 of VA Form 0205 and be based on the executives overall performance during the recertification period in relation to the standard for recertification in paragraph 7. The factors identified in paragraph 7c are to be considered in determining whether the standard for recertification has been achieved.

(a) If the supervisory official recommends recertification, no written justification is required.

(b) A recommendation proposing conditional recertification or no recertification will include a narrative justification which specifies those aspects of the standard for recertification that have not been met. Conditional or nonrecertification recommendations must also include documentation from the previous supervisor if the supervisory official has not supervised the executive for at least 90 days. Supervisory officials are encouraged to contact the appropriate PRB support staff for technical advice and assistance prior to preparing justifications for conditional or non-recertification recommendations.

(2) By November 1, supervisory officials will submit VA Form 0205, documenting recertification recommendations on executives covered by paragraph 5 to the appropriate Performance Review Board. Any information provided by the executive in accordance with paragraph 8a will also be forwarded to the PRB at this time.

(3) The supervisory official will provide the executive a copy of the recertification recommendation as documented on VA Form 0205, advising the executive of his/her right to submit additional documentation to the Performance Review Board (PRB) on the quality of the executives performance in relation to the standard for recertification in paragraph 7. Receipt of the supervisory officials recertification recommendation will be documented in part 3 of VA Form 0205.

**c. Performance Review Board Recommendation**

(1) More than one-half of the members of the PRB will be SES career appointees. PRB members will not participate in recommending recertification actions on themselves, their subordinates, or their supervisors.

(2) The Performance Review Board will consider the supervisory officials recommendation and any information provided by the executive in accordance with paragraph 8a and prepare a recommendation as to whether the executive should be recertified, conditionally recertified, or not recertified.

(a) PRB recommendations for the recertification of executives under its purview should be forwarded to the Chairman, VA Executive Resources Board, by December 1.

(b) In preparing its recommendation, the PRB may request additional information or conduct any necessary reviews, including requesting that the supervisory official or other officials appear before the Board.

(3) If a PRB proposes to recommend conditional recertification or no recertification, the executive will:

(a) Be notified in writing, specifying the PRB's rationale, in sufficient detail, for its proposed recommendation. If the PRB chooses to use the same rationale as provided by the supervisory

official, it need only indicate its concurrence in the supervisory officials justification on VA Form 0205.

(b) Have the opportunity to appear before the PRB prior to the forwarding of the recommendation to approval official. The executive will be given at least 3-days advance notice of the proposed scheduled appearance. If the executive requests, he/she may be given a reasonable amount of official time to prepare for his or her appearance.

(4) If the PRB recommends recertification it may also recommend that the executives rate of basic pay be increased. If the Board recommends conditional recertification, it may also recommend that the executives rate of basic pay be reduced to the next lower ES pay rate.

(5) The PRB's recertification recommendation will be documented on part 4 of VA Form 0205. This form, including the recommendation from the supervisory official and any information provided by the executive in accordance with paragraph 8a, will be provided for consideration by the appropriate approval official. The approval official will also be provided a summary of the PRB's recertification recommendations.

#### **d. Approval Official Determination**

(1) By December 31st, the approval official will determine whether an executive will be recertified, conditionally recertified, or not recertified. This determination will be documented on part 5 of VA Form 0205, and a copy of the complete form will be provided to the executive.

(2) Written reasons must be provided for any decision to conditionally recertify or to not recertify a career appointee. The reasons must be specific enough so that the executive will be able to understand why the action was taken. The approval official may concur without providing additional reasons if he or she agrees with those reasons provided by the supervisory official and/or PRB and thinks those reasons will be adequate to support a case if the executive appeals a removal action.

(3) If a decision to conditionally recertify or not recertify is being considered and the executive has not had an opportunity for a personal appearance because all previous deliberations have considered only A recommendation to recertify, the approval official may provide the executive an opportunity to make a presentation in writing and/or in person to the approval official or an appropriate designee.

(4) Determinations will not be based on a prescribed distribution of how many or what percentage of executives will be recertified, conditionally recertified, or not recertified.

## 9. RECERTIFICATION DETERMINATIONS

### a. Decision to Recertify

(1) If the approval official determines that the executives performance warrants recertification, the executive will continue in the SES.

(2) If the decision is made to increase the executives rate of basic pay, the statutory restriction that an SES member's pay level may be changed only once in a 12-month period remains applicable.

### b. Decision to Conditionally Recertify

(1) If the approval official determines that the executives performance warrants conditional recertification, the executive:

(a) Will be notified in writing enclosing the completed VA Form 0205, and necessary supporting documentation.

(b) Will remain a career appointee in the SES.

(c) Will be subject to continuing close review of the executives performance by the supervisory official in coordination with the appropriate Executive Resources Board.

(d) Will be subject to a performance improvement plan developed by the supervisory official, subject to the approval of the appropriate ERB, and provided to the executive within 30 days of his/her notification of conditional recertification. The executive will be given the opportunity to read and comment on the proposed performance improvement plan before it is forwarded to the ERB for approval. The performance improvement plan will cover the 12 month period following the conditional recertification decision. It should reflect consideration of the executives performance plan for the period, and it should include a description of the deficiencies in the executives performance, what constitutes satisfactory completion of the plan, a statement of the support and assistance to be provided by the supervising official, and any training initiatives planned. Periodic progress review discussions should be held and documented at 90-day intervals.

(e) May, if the approval official so determines, be reduced to the next lower ES pay rate, once 12 months have elapsed since the executives last pay adjustment.

(f) May not appeal to the Merit Systems Protection Board as the law does not provide such a right.

(2) At the end of the 12 months following conditional recertification, the Department will make a new recertification determination. The process for making the new determination will be

the same as for the initial recertification decision, including review and recommendation by the appropriate Performance Review Board.

(a) The individual will be retained in the SES if recertified and have any reduction in ES pay level made under paragraph 9b (1)(e) restored as of the beginning of the first pay period following recertification when 12 months have elapsed since the pay reduction.

(b) The individual will be removed from the SES if not recertified at the end of the 12-month period following the conditional recertification.

**c. Decision Not to Recertify**

(1) If the approval official determines that the appointee's performance does not warrant recertification or conditional recertification, the executive will be removed from the SES in accordance with 5 CFR 359, subpart C, or if a reemployed annuitant, subpart I.

(2) The executive will be notified in writing before the effective date of the action. If the appointee has completed the SES probationary period, or was not required to serve a probationary period, the notice will be at least 30-calendar days before the effective date of the removal from the SES.

(3) The notice will include the completed VA Form 0205 and advise the appointee of:

(a) The basis for the action.

(b) The executives placement rights provided under 5 CFR 359.701-705. The position to which the appointee will be assigned will be identified either in the advance notice or in a supplementary notice issued no later than 10-calendar days before the effective date of the action.

(c) The executives right to appeal to the Merit Systems Protection Board, the time limit for appeal, the office to which an appeal should be sent, and the absence of a provision for a stay in the removal action pending the appeal process.

(d) The effective date of the removal from the SES.

(e) The executives eligibility for immediate discontinued service retirement in lieu of placement rights (when applicable), with no annuity reduction based on age (CSRS) or eligibility for an annuity supplement regardless of age (FERS).

(4) Removal from the SES as a result of not being recertified may not be made effective within 120 days after:

(a) The appointment of a new Secretary; and

(b) A new Inspector General, in the case of OIG employees.

## 10. RECORDS

a. Recertification documentation will be maintained in the Employee Performance Folders (EPF) established in accordance with Section F, paragraph 6. Information contained in the EPF is protected under the provisions of the Privacy Act.

b. Documentation will be maintained for 5 years from the date of the recertification determination. If an individual is conditionally recertified, documentation for the final recertification determination shall be maintained for 5 years from the date of the conditional recertification.

## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION F. PERFORMANCE APPRAISAL SYSTEM

#### 1. POLICY

The performance appraisal system established under this section shall serve as a tool for executing basic management and supervisory responsibilities by:

- a. Communicating and clarifying organizational goals and objectives.
- b. Identifying individual accountability for the accomplishment of Department goals and objectives.
- c. Evaluating and improving individual and organizational accomplishments.
- d. Providing a basis for SES performance awards and other personnel actions including pay adjustments, executive development, reassignments, reduction-in-force and removals.

#### 2. REFERENCES

- a. 5 U.S.C. chapter 43, subchapter II.
- b. 38 U.S.C. chapters 73 and 74.
- c. 5 CFR 430, subpart C; 771.105; part 293, subpart D and part 359, subpart E.

#### 3. DEFINITIONS

a. **Executive** is an employee who is subject to the performance appraisal system described in this section. Specifically, this includes career, noncareer, limited term and limited emergency appointees in the Senior Executive Service; individuals appointed under 38 U.S.C. 7306 who are not physicians or dentists; and Presidential appointees who elect to continue eligibility for SES performance awards under the provisions of 5 U.S.C. 3392(c). In accordance with VA policy, MP-5, part II, chapter 6, physician and dentist healthcare Network Directors, facility Directors, clinical service managers and Headquarters executives appointed under 38 U.S.C. 7401 are evaluated under this performance appraisal system. Senior Level and Scientific and Professional (SL) employees are covered by the performance appraisal system established in MP-5, part I, chapter 430. Members of the Board of Contract Appeals are excluded from all appraisal systems.

b. **Rater** is the official, usually the immediate supervisor, who is responsible for the development of performance plans and who appraises the executives performance and recommends a performance rating.

c. **Performance Review Board (PRB)** is the panel which reviews the initial rating recommended by the rater, and other performance related documents, and makes recommendations on final ratings and performance awards to the approval official. Section B of this chapter establishes the VA's Performance Review Boards. The names of the Performance Review Board members for a specific rating period will be published in the Federal Register before any action is taken by the PRB to process or recommend performance ratings or awards. Each PRB will have at least three members.

d. **Approval Official** is the official who approves each executives final rating after considering the recommendations of a PRB. The Secretary is the approval official for all executives outside the office of the Inspector General (OIG). The Inspector General is the approval official for subordinate executives in the OIG. (If covered by the SES appraisal system through the provisions of 5 U.S.C. 3392(c), the Inspector General's performance rating will be approved by the Secretary.)

e. **Element** (formerly called key responsibility) is a component of a position consisting of one or more duties and responsibilities which is sufficiently important to warrant written appraisal. An element may be either critical or noncritical as defined in paragraph 3f or g below.

f. **Critical Element** is any element which contributes toward accomplishing organizational goals and objectives, and which is of such importance that unacceptable performance of it would result in unacceptable performance in the position.

g. **Noncritical Element** is any element which does not meet the definition of a critical element but is still of sufficient importance to warrant written appraisal.

h. **Performance standards** are statements of the expectations or requirements established by management for a critical or noncritical element at a particular achievement level. Since accomplishment of organizational objectives must be reflected in performance plans, performance standards should describe specific recurring and nonrecurring goals, program objectives, priority programs, etc. Factors such as quality, quantity, cost efficiency, timeliness and manner of performance may also be reflected.

i. **Performance Plan** is the aggregation of all of an employee's written critical and noncritical elements and performance standards.

j. **Achievement Level** is the one overall level of accomplishment for each element as measured against the established performance standards. Achievement levels are defined as follows:

(1) **Fully Successful.** Performance standards for the particular element when taken as a whole are being met. This level is a positive indication of employee performance and means that the employee is effectively meeting performance demands for this component of the job.

(2) **Exceptional.** Fully successful performance standards for the element are being significantly surpassed. This level is reserved for employees whose performance in the element far exceeds normal expectations and results in major contributions to the organization.

(3) **Less Than Fully Successful.** A level of performance that does not meet the standards established for the fully successful level. Assignment of this achievement level means that performance of the element is unacceptable.

k. **Appraisal** is the act or process of reviewing and evaluating the performance of an employee against the described performance standards. It is the process by which an achievement level is established for each element and upon which a summary rating level is assigned.

1. **Progress Review** means a review of an executives progress towards achieving his/her performance standards and is not in itself a rating.

m. **Rating** is the written record of the appraisal of each critical and noncritical element and the assignment of a summary rating level. Ratings must be prepared by the rater at the end of the appraisal period or when an executive supervised for more than 90 days is reassigned or transferred. Ratings may also be appropriate under other circumstances discussed in paragraph 9.

n. **Summary Rating Level** is the composite summary of an executives performance based on the achievement levels assigned for each performance element. Summary rating levels are defined as follows:

(1) **Outstanding--**Achievement levels for all elements are designated as Exceptional. (An outstanding rating reflects an extraordinary level of individual achievement and major contribution to accomplishment of organizational goals and objectives.)

(2) **Excellent--**Achievement levels for all critical elements are designated as Exceptional. Achievement levels for noncritical elements are designated as at least Fully Successful. Some, but not all, noncritical elements may be designated as Exceptional.

(3) **Fully Successful--**The achievement level(s) for one (or more) critical element(s) is (are) designated as Fully Successful. Achievement levels for other critical and non-critical elements are designated as at least Fully Successful or higher.

(4) **Minimally Satisfactory--**Achievement levels for all critical elements are designated as at least Fully Successful. However, the achievement level(s) for one (or more) noncritical element(s) is (are) designated as Less Than Fully Successful.

(5) **Unsatisfactory--**The achievement level(s) for one (or more) critical element(s) is (are) designated as Less Than Fully Successful.

o. **Initial Rating** is the rating level assigned by a rater at the end of the appraisal period and provided to the Performance Review Board. Unless the special circumstances discussed in paragraph 10c apply, the initial rating shall be the same as the summary rating level.

p. **Final Rating (Rating of Record)** is the rating authorized by the approval official after considering the recommendations of a Performance Review Board.

#### 4. PROGRAM RESPONSIBILITIES

a. **The VA, OIG, VHA and VBA Performance Review Boards** will oversee the processing of performance appraisals for executives under each one's respective purview and make recommendations on performance ratings and related matters to the Secretary, Inspector General, Under Secretary for Health and Under Secretary for Benefits.

b. **The Deputy Assistant Secretary for Human Resources Management** will:

- (1) Provide technical advice and assistance on the SES performance appraisal system;
- (2) Provide appropriate training and information to supervisors and executives to assure effective administration of the performance appraisal system;
- (3) Provide technical and administrative support to the VA Performance Review Board;
- (4) Review and assure the technical correctness of Performance Review Board actions submitted for approval of the Secretary;
- (5) Coordinate the processing and coding of performance ratings;
- (6) Maintain Employee Performance Folders for all executives; and
- (7) Evaluate the effectiveness of the SES performance appraisal system and recommend modifications as appropriate. Methods used to evaluate the system may include rater/ratee questionnaires and/or review and analysis of performance plans and rating patterns.

c. **Supervisors** are responsible for ensuring that the requirements of this section relating to the establishment and communication of performance plans and the processing of performance appraisals and ratings are fulfilled. This includes ensuring that higher level supervisory officials, such as the Assistant Secretaries, are appropriately involved in the development of performance plans and appraisals.

#### 5. GENERAL

a. **Performance Appraisal Period.** The minimum performance appraisal period for executives covered by this section is 90 days. Generally, the SES appraisal period will be October 1 through September 30.

(1) **Extension of Appraisal Period.** If an executive was initially appointed to the SES after July 2, the appraisal period will be extended to December 31. The appraisal period may also be extended under the special circumstances described in paragraph loc.

(2) **Curtailement of Appraisal Period.** In accordance with paragraph 13 of this section, the agency can terminate the appraisal period and rate an executives performance before the end of the appraisal period in any case in which the agency determines that an Adequate basis exists on which to appraise and rate the executives performance.

b. **Change in Presidential Administration.** A performance rating cannot be assigned to a career appointee within 120 days after the beginning of a new Presidential Administration.

c. **Performance Appraisal Forms.** VA Form 3482 (formerly VA Form 5-3482), Senior Executive Service--Performance Appraisal System, will be used to document the performance plan approved for each executive and the appraisal and rating recommended by the rater, review official (if applicable) and the Performance Review Board(s). VA Form 3482 or VA Form 3486a, Senior Executive Service Performance Rating/Award Authorization, will be used to document the final rating of record authorized by the approved official.

d. **Calendar Days.** Unless otherwise specified, references to "days" in this section refer to calendar days.

## 6. EMPLOYEE PERFORMANCE FILE SYSTEM

a. **General.** 5 CFR Part 293, Subpart D requires agencies to establish systems for maintaining performance related records. These record systems are part of OPM's Government-wide Privacy Act system of records, "OPM/GOVT-2, Employee Performance File System Records."

b. **Employee Performance Folder.** The Office of Human Resources Management will maintain an Employee Performance Folder (EPF) for each executive covered by this section. The EPF will be maintained separate from the Official Personnel Folder (OPF) in a storage system which meets the physical security requirements set forth in MP-5, part I, chapter 297. VA Form 3495, Employee Performance Folder, will be used for the EPF.

c. **Extension EPFS.** Performance related records required by the rater or other officials directly involved in the processing of performance appraisals may be maintained under the Employee Performance File System if they meet the physical security requirements set forth in MP-5, part I, chapter 297 and the requirements of 5 CFR Part 293, Subpart D, and this paragraph. Filed in an appropriate file folder, the extension Employee Performance File (Extension File) may contain copies of documents filed in the EPF maintained by the office of Human Resources Management. In addition, other performance related material needed to assist in evaluating employee performance (e.g., individual production records, quality control records, performance counselings, etc.) may be maintained.

d. **Access to EPF.** Access to the Employee Performance Folder and the Extension File is covered by MP-5, part I, chapter 297 and is limited to:

(1) VA operating and administrative officials when required by their official duties and responsibilities.

(2) Representatives of Government agencies when required in conjunction with their official responsibility for overseeing SES performance appraisal activities.

(3) The person to whom the EPF pertains.

(4) The employee's representative as designated in writing. Other requests for access to the Employee's Performance Folder will be processed under either Privacy Act or Freedom of Information Act procedures, as appropriate.

e. **Content and Retention.** The documents described below will be filed in the Employee Performance Folder and/or the Extension File and will be disposed of by burning, shredding, or otherwise treating to destroy their legibility. Records may be retained beyond the following retention schedules for use in making statistical analyses. However, the records are not to be used in decisions affecting the employee after the prescribed destruction date.

(1) Performance plans, appraisals, and ratings documented in VA Form 3482 and VA Form 3486a will be retained for 5 years after date final rating is approved.

(2) Any documents used to support the performance appraisal or rating will be attached to VA Form 3482 and retained for 5 years after date final rating is approved. This includes self-assessments, written responses on recommended ratings, and materials documenting Performance Review Board recommendations on ratings.

(3) Performance related records (e.g., performance related notes or memorandums, production records, quality control records, performance counselings) whether maintained in the Employee Performance Folder or in an Extension File will be destroyed when no longer needed but not more than 60 days after a performance rating is authorized by the approving official.

(4) Recommendations, supporting documents, and the final agency decision on any personnel actions made in conjunction with the performance appraisal process will be retained for 5 years and then destroyed. This includes recommendations on pay adjustments, performance awards, reassignments, or removals.

**NOTE:** SF Forms 52, Request for Personnel Action, and SFs 50B, *Notification of Personnel Action*, which document approved performance related personnel actions, and similar documents for approved performance related actions will be filed in the Official Personnel Folder. Copies of these documents may be retained in the EPF or Extension File.)

(5) Records documenting nomination for a Presidential Rank Award will be retained for 5 years. (*NOTE: Records documenting receipt of a Presidential Rank Award will be filed in the OPF.*)

(6) Plans for executive development (including VA Form 4692, Individual Development Plan), prepared in conjunction with the performance appraisal will be retained for 5 years.

(7) Performance related records needed in conjunction with an ongoing administrative, quasi-judicial, or judicial proceeding which are not part of another system of records (Grievance, EEO, Appeal, etc.) should be retained as long as necessary beyond the above retention schedules.

(8) General information about the employee, i.e., identification data, summary information on employment, training, pay adjustments and awards, may be maintained as deemed appropriate.

**f. Disposition**

(1) **Interagency Transfer and Departure From Federal Service.** When an executive transfers to another agency, or leaves the Federal Service, the VA Form 3486a documenting the rating of record for the latest 5 appraisal Periods and the VA Form 3482 on which the most recent rating is based will be forwarded with the OPF to the new agency or the National Personnel Records Center (NPRC).

(2) **Placement in General Schedule Position.** When an executive chooses to be reinstated to a General Schedule position within the agency, or when a Senior Executive is removed from the SES and placed in an agency position at GS-15 or above under the provisions of 5 U.S.C. 3594, all appropriate performance-related documents 3 years old or less shall be forwarded in the Employee Performance Folder to the personnel office which maintains the Employee Performance Folder established under MP-5, part I, chapter 293.

(3) **Presidential Appointment.** When a career Senior Executive accepts a Presidential appointment pursuant to 5 U.S.C. 3392(c), the employee's performance file will be retained as long as the employee remains employed under that Presidential appointment. When the appointment ends and the individual does not return to the Senior Executive Service, the performance records will be retained and disposed of as authorized by OPM and published in the appropriate General Records Schedule issued by National Archives and Records Administration.

(4) **Extension File.** Extension Files will not be transferred when an employee moves to a position under a different supervisor or separates from the agency and will be destroyed 90 days after the change or separation has occurred.

## 7. PERFORMANCE PLAN

### a. Basic Requirements

(1) At or before the beginning of the appraisal period, the elements and standards of each executives performance plan will be communicated to the executive. The rater is responsible for communicating proposed elements and standards; consulting with the executive, and if appropriate, the higher level supervisory official, on the plan's content; and providing a written performance plan to the executive within 30 days of the beginning of the appraisal period. By November 1, Administration heads, Assistant Secretaries and other Key Officials will transmit written certification to the VA Performance Review Board that performance plans are in place for all subordinate executives.

(2) The performance plan will be based on the duties and responsibilities established for the position and will reflect responsibility for accomplishment of agency goals and objectives. The performance plan will include:

(a) The elements of the job. Every position will have at least one element designated as a critical element and one designated as a noncritical element.

(b) The individual and organizational performance standards or results to be achieved for each element. Performance standards must be written at the "fully successful" level of achievement. Absence of written standards for the "exceptional" or "less than fully successful" achievement levels shall not preclude assignment of those levels. To the extent possible, these performance standards should be stated in objective and measurable terms.

### b. Work Plan Approach

(1) The performance plans for all executives whose positions include significant managerial responsibilities will include a performance element, "Work Plan Accomplishment," or a similar element. (Staff positions which do not include significant program management responsibilities are excluded from the provisions of this paragraph.)

(2) The work plan will identify high priority goals and projects to be individually tracked during the appraisal period.

(a) Generally, the number of objectives (i.e., performance standards) in the work plan will be limited to from 5 to 10.

(b) The specificity of the objectives will vary depending on the level and functions of the position covered. Generally, objectives for higher level positions will be fairly general, building on more specific objectives in the plans of subordinates.

(c) An executives work plan should reflect his/her responsibility for items in the annual Program Operating Plan. Work plans for Deputy Under Secretaries and Deputy Assistant

Secretaries and Deputies to other key officials should reflect overall responsibility for all items in their organization's Program Operating Plan, with high priority goals and projects individually tracked. Work plans for subordinate executives should identify the specific goals and projects for which they are responsible.

(3) A list of elements and performance standards common to many executive positions is provided in the appendix to this section. When combined with the individualized performance standards in the work plan, this prototype should serve as the performance plan for most executive positions involving significant managerial responsibility. The sample elements and standards should be modified, as necessary, to reflect the unique duties and responsibilities of individual positions. However, in order to promote a degree of consistency in executive performance plans, major deviations in format require approval of the appropriate administration head, Assistant Secretary or other key official.

(4) Senior Executives play a key leadership role in promoting equal employment opportunity, affirmative action and the elimination of discrimination and sexual harassment in the workplace. One of the standards under the Human Resources Management element in the prototype deals with providing active leadership in equal opportunity matters (standard f) and another concerns providing effective leadership in promoting specific actions to avoid discrimination complaints (standard g). In connection with these two standards, the work plans of all Senior Executives will include specific objectives designed to increase the employment and advancement of minorities, women, and people with disabilities geared to the areas of under-representation and will be results oriented. In addition, the work plans will also include objectives relating to specific activities designed to improve understanding between all employees and to eliminate factors in the workplace that may encourage sexual harassment or discrimination.

**c. Relationship of Elements to Performance Standards.** The appraisal process consists of assigning one achievement level for each element. While each element may have several performance standards related to it, it is the overall performance of these standards which establishes the one achievement level for each element. Supervisors may give added emphasis to some performance standards versus others. When this is done, employees must be informed of the relative significance of the standards when the performance plan is communicated.

**d. Assignment to New Position.** Whenever an executive is assigned to a new position through reassignment, transfer or appointment, performance elements and standards will be promptly communicated. A written plan, developed in consultation with the executive, will be provided to the executive no later than 30 days after the beginning of the new assignment.

**e. Details.** If a detail or acting assignment is expected to last 120 days or longer, a written performance plan will be prepared. This written plan, developed in consultation with the executive, will be provided to the executive no later than 30 days after the beginning of the detail or acting assignment. Written performance plans are optional for details or acting assignments lasting less than 120 days.

f. **Employee Participation.** Raters may ask executives to submit proposed performance plans before the beginning of the appraisal period. When this is done, the supervisor will review the proposed plan, discuss any changes or modifications with the executive, and provide a written copy of the approved performance plan to the executive.

g. **Continuing Review of Performance Plan.** The performance plan should be reviewed by both the executive and the rater during the appraisal period. Changes in program emphasis or other developments which would make the standards inappropriate for the current situation may necessitate changes to the plan. The rater will document in writing any revisions or deletions to the performance plan and communicate them to the executive. Normally, performance plans will not be changed within 90 days of the end of the appraisal period.

## **8. PROGRESS REVIEW**

The rater shall hold a progress review for each employee at least once during the appraisal period. At a minimum, an employee shall be informed of his/her level of performance by comparison with the elements and performance standards established for his/her position. The progress review should also be used as an opportunity to review executive performance plans.

## **9. THE RATING PROCESS**

### **a. General Requirements**

(1) A rating is the written record of the appraisal of each critical and noncritical element and the assignment of a summary rating level by the rater. Ratings will be documented on VA Form 3482 or a copy thereof. The original appraisal form will be forwarded to the Office of Human Resources Management for inclusion in the executives Employee Performance Folder and a copy will be provided to the executive.

(2) In accordance with paragraph 10, ratings are generally prepared at the end of the appraisal period. Ratings are also required under the following circumstances:

(a) If the executive is reassigned to another executive position in VA or transferred to a new agency after serving in a covered position for more than 90 days during the appraisal period.

(b) If the executive was detailed to another SES (or equivalent) position in VA or served in another executive position on an acting basis for 120 days or longer.

(c) If the executives immediate supervisor is reassigned to another VA position within 90 days of the end of the appraisal period.

In the above circumstances, a rating will be prepared by the executives immediate supervisor within 30 calendar days from the date of the reassignment, transfer, termination of detail or supervisory change; or if the change occurs after September 15, within 15 days of the end of the appraisal period.

(3) Preparation of a written rating is not required in the following circumstances; however, it is strongly encouraged:

(a) Whenever an individual who has supervised an executive for more than 90 days during the appraisal period is reassigned to another VA position before July 3 or leaves the agency.

(b) When an executive was detailed to another SES (or equivalent) position in the VA or served in another executive position on an acting basis for less than 120 days.

(4) Executives may be asked to prepare or they may voluntarily submit a self-assessment of their performance as measured against the approved performance plan. Self-assessments should be submitted to the rater within 7 days of the end of the appraisal period.

(5) All ratings prepared during the appraisal period will be considered by the rater in deriving the initial rating which is forwarded for PRB consideration.

**b. The Rating Process**

(1) The rater will assess the executives accomplishment of each established performance standard, consider the impact of the individual standards on overall performance of the element and assign one achievement level for each element. An achievement level must be assigned for each critical and noncritical element of the performance plan unless the executive has had insufficient opportunity to demonstrate performance in the element. If an achievement level other than fully successful is assigned, actual accomplishments supporting that level must be documented in the portion of VA Form 3482 provided for this purpose. When an achievement level of fully successful is assigned, documentation of performance accomplishments is not required.

(2) Based on the achievement levels assigned, the rater will assign one of the five summary rating levels described in paragraph 3n of this section.

**10. ASSIGNMENT AND REVIEW OF INITIAL RATING**

a. **Coverage.** All executives who meet the definition set forth in paragraph 3a of this section and who occupied an SES or equivalent position at the end of the appraisal period will be rated in accordance with paragraphs 10 and 11. To the extent set forth in paragraph 12, these policies will be modified for executives appointed to an SES or equivalent position after July 2.

b. **Standard Procedures for Assigning Initial Rating.** In accordance with paragraph 9, the rater will prepare a written rating for each executive who was supervised for at least 90 days prior to the end of the appraisal period. Unless the special circumstances described in subparagraph c apply, this rating will be the initial rating forwarded to the PRB.

c. **Special circumstances**

(1) **Supervisor for Less Than 90 days.** If at the conclusion of the appraisal period, the rater has served in his/her position for less than 90 days or if the executive being rated was reassigned or transferred to a position under a new supervisor within 90 days of the end of the appraisal period, one of the following procedures should be used to derive the initial rating.

(a) The rating prepared by the previous supervisor may be endorsed as the initial rating by the rater.

(b) The appraisal period may be extended to provide for a minimum appraisal period under the new supervisor.

*NOTE: If within the last 90 days of the appraisal period an executive is reassigned to a different position under the same supervisor, the initial rating will be based on the rating for the previous position.*

(2) **Multiple Ratings.** The rater must consider all ratings prepared for the executive during the appraisal period before assigning an initial rating. If multiple ratings were made, the following factors may be considered in deriving the initial rating:

(a) Similarity of performance elements and standards.

(b) Length of time covered by the ratings.

(c) Currentness of the ratings.

(3) When an executive is detailed or engaged in an executive development assignment outside the agency for a significant portion of the appraisal period, the rater will make a reasonable effort to obtain relevant appraisal information from the agency or organization to which the executive is detailed or temporarily assigned for consideration in assignment of the initial rating. The executive must be rated if he/she served in VA at least 90 days during the appraisal period. If the executive did not serve in VA for at least 90 days, but has served for the minimum appraisal period outside VA, a reasonable effort will be made to prepare an initial rating using appraisal information obtained from the borrowing organization.

(4) In the above special circumstances, one of the following initial ratings will be assigned: outstanding, excellent, fully successful, minimally satisfactory or unsatisfactory only executives whose overall performance far exceeded normal expectations and reflected a major contribution to accomplishment of organizational goals and objectives may be rated above fully successful. The rater will briefly describe the basis for deriving the initial rating in the narrative summary of the appraisal form.

**d. Documentation and Review**

(1) **Documentation.** The rater will provide a copy of the appraisal and initial rating to the executive along with notification of the right to respond in writing and to request a higher level review before the initial rating is forwarded to the PRB.

(2) **Executive Review.** The executive must be given adequate time to review his/her appraisal and initial rating and provide written comments on it before it is forwarded to the Performance Review Board. Three workdays is considered an adequate period of time.

(3) **Optional Higher Level Review.** Before the initial rating is forwarded to the appropriate Performance Review Board, the executive or the immediate supervisor of the rater (higher level review official) may request review by the higher level review official. Higher level review cannot be provided for executives rated by the Secretary. An executive rated by the Inspector General can request higher level review by the Secretary; however, the Inspector General retains authority for final approval of the rating. The executive and the rater will be provided any comments and changes recommended by the higher level review official.

**11. PRB REVIEW AND APPROVAL OF FINAL RATLNG BY APPROVAL OFFICIAL**

**a. PRB Review**

(1) The VA's Performance Review Boards have been established to assure consistency, stability and objectivity in the performance appraisal process. More than one-half of the PRB members making recommendations on ratings or awards for career executives must be career executives (5 U.S.C. 4314(c)). The PRB making recommendations on ratings for noncareer executives will be three or more members of the VA Performance Review Board designated by the chairperson.

(2) Proposed performance appraisals and initial ratings, including written comments provided by the executive and/or higher level review official, will be forwarded to the appropriate Performance Review Board by November 1. Raters will assure that a copy of the VA Form 3482, which is submitted to the PRB, is provided to the executive. The Performance Review Boards will consider the proposed rating for each executive under their purview, including any response by the executive; conduct such further review as the Board finds necessary; and recommend a rating for each executive. The PRBs should attempt to achieve equity and consistency among the ratings of executives as well as accuracy and fairness in individual ratings. However, no controls requiring specific distribution of ratings will be established.

(3) By December 1, the VHA and VBA PRBs will forward their recommendations on performance ratings, through the appropriate Under Secretary, to the VA Performance Review Board. The VA Board will transmit final recommendations on performance ratings for the Inspector General (if appropriate) and all VA executives outside of the OIG to the Secretary by December 15.

(4) By November 15, the Inspector General will consider the OIG PRBs recommendations on performance ratings for OIG executives, approve ratings for subordinate executives and transmit the approved appraisals and final ratings to the VA PRB for consideration in preparing its recommendations on SES performance awards.

(5) When unusual circumstances require, the Chairperson of the VA Performance Review Board may modify the target dates set forth in subparagraph (2), (3) and (4) above.

(6) Consistent with law, OPM regulation and VA or administration policy, each Performance Review Board will recommend written operating procedures which document the specific methods the Board will use to process and prepare recommendations on performance appraisals and related actions. This includes a summary of procedures used to ensure that PRB members do not participate in recommending performance ratings for themselves, their subordinates, or their supervisors. These procedures will be approved by the Chairperson of the VA Performance Review Board.

(7) Formal minutes will be prepared for all Board meetings and maintained for 5 years.

b. **Approval of Final Rating.** The approval official either concurs with the recommended rating, or after discussion with the Chairperson of the VA Performance Review Board (or the OIG PRB for OIG executives) and other officials familiar with the executives performance, assigns a different rating. If a different rating is assigned, the basis for the rating change will be documented on VA Form 3482.

## 12. RATING NEWLY APPOINTED EXECUTIVES

The appraisal period for executives appointed after July 2 will extend to December 31. Unless modified below, the policies set forth in paragraphs 10 and 11 apply to the assignment, review and approval of ratings for these executives.

a. By January 15, proposed performance appraisals and initial ratings, including written comments provided by the executive and/or higher level review official will be forwarded to the appropriate Performance Review Board.

b. By February 1, the appropriate Performance Review Board will complete its review of the proposed ratings and forward recommendations to the approval official. Recommendations of the VHA and VBA Performance Review Boards will be forwarded to the approval official through the Chairperson of the VA PRB; however, review of the ratings by the full VA PRB is not required.

## 13. CURTAILMENT OF APPRAISAL PERIOD

In any case where there is an adequate basis to determine that an executives performance is less than fully successful, the appraisal period can be terminated and the executives performance can be appraised and rated. Typically, such action would be taken only in cases when the

consequences of the executives performance have an adverse impact on the efficient and effective management of critical agency programs and removal or reassignment of the executive is necessary.

a. The period of time on which such a performance appraisal and rating are based cannot be less than 90 days.

b. The procedures set forth in paragraph 10 above, will be followed in the assignment and review of such ratings.

c. The Chairperson of the appropriate Performance Review Board will call a special session of the PRB to consider the proposed rating and prepare recommendations for consideration of the approval official. Recommendations of the VHA, VBA and OIG Performance Review Boards will be forwarded to the approval official without further review by the VA PRB. In preparing its recommendations, the Performance Review Board will review the proposed rating, including any written comments provided by the executive and/or the higher level review official and obtain additional information as appropriate.

d. The approval official either concurs with the recommended rating, or after discussion with the Chairperson of the appropriate PRB and other officials familiar with the executives performance, assigns a different rating. If a different rating is assigned, the basis for the rating change will be documented on VA Form 3482.

e. A rating approved in accordance with this paragraph is the official rating of record.

#### **14. PROCESSING AND REPORTING APPROVED PERFORMANCE RATINGS**

The Office of Human Resources Management will coordinate the processing of approved performance appraisals and ratings and assure that all reporting requirements are met. This includes:

a. Assuring that executives are provided a copy of the section of VA Form 3482 which documents PRB recommendations and VA Form 3486a.

b. Coordinating the distribution of VA Form 3486a to each executives servicing personnel office for coding the rating into the PAID system (MP-6, pt. V, supp. No. 1.5).

c. Reporting ratings and awards to OPM.

#### **15. RESULTS OF RATINGS**

a. **Fully Successful or Higher.** In accordance with section G of this chapter, career executives rated fully successful or higher may be granted performance awards. (Title 5 U.S.C. 5384(c) provides that performance awards shall be based on recommendations by Performance

Review Boards.) Because of the limited number of awards available, awards will generally be granted only to those executives rated outstanding or excellent.

b. **Less Than Fully Successful Ratings.** Any executive rated below the fully successful level shall be assisted in improving his/her performance. Such assistance may include but is not limited to formal training, on-the-job training, counseling and closer supervision.

(1) **Senior Executives.** Any Senior Executive receiving an unsatisfactory rating will be reassigned or transferred within the Senior Executive Service or removed from the Senior Executive Service. Any Senior Executive, however, who receives two unsatisfactory ratings in any period of 5 consecutive years will be removed from the Senior Executive Service. Any Senior Executive who twice in any period of 3 consecutive years receives less than fully successful ratings will be removed from the senior Executive Service.

(2) **Title 38 Network Directors, Medical Center Directors, Clinical Service Managers and Headquarters Executives.** Corrective action will be considered for title 38 executives who are rated less than fully successful under this performance appraisal system.

*(NOTE: In view of the potential consequences of a LTFS (less than fully successful) rating, rating officials and Performance Review Boards should carefully consider and document their actions, on LTFS ratings. This includes the rater's documentation on the appraisal form when a removal, reassignment, or transfer is contemplated or required in conjunction with a proposed LTFS rating and thorough review and discussion of proposed LTFS ratings by the appropriate Performance Review Board.)*

## 16. OTHER USES OF RATINGS AND RESULTS

a. **Pay Adjustments (SES).** The SES pay rate of a Senior Executive rated fully successful or higher may be increased in accordance with MP-5, part I, chapter 920, section H. A Senior Executive's pay rate may be lowered one level if he/she is rated minimally satisfactory or unsatisfactory.

b. **Presidential Rank Awards.** A sustained record of outstanding and/or excellent ratings under the performance appraisal system is one means of identifying career executives who should be considered for Presidential Rank Awards under MP-5, part I, chapter 920, section G.

c. **Executive Development.** The performance appraisal process is one means of identifying an executives developmental needs. 5 CFR 412.107(d) requires each Senior Executive to have an Individual Development Plan. This plan may be set forth in the narrative summary of the appraisal form.

d. **Placement Actions.** Performance appraisals will be considered in placement actions to the extent that they demonstrate possession of the qualification requirements established for the position being filled.

e. **Reduction in Force (SES).** Title 5 U.S.C. 3595(a) requires that the competitive procedures which form the basis of SES reduction in force are primarily based on performance. VA RIF policies are set forth in MP-5, part I, chapter 920, section K.

## **17. APPEALS AND GRIEVANCES**

Performance appraisals and ratings approved under this performance appraisal system are not subject to appeal or grievance (5 U.S.C. 4312(d) and 5 CFR 771.105(b)(5)). However, allegations of prohibited personnel practice or discrimination in the rating process may be filed in accordance with Merit Systems Protection Board or Equal Employment Opportunity Commission policies and procedures, as appropriate.



## APPENDIX A. COMMON MANAGERIAL ELEMENTS

The following list identifies managerial elements which are common to many executive positions. They are to be used in conjunction with the work plan approach described in paragraph 7b of this section.

### 1. **Organizational Planning**

- a. Sets long and short term program objectives that are realistic and are responsive to Department goals and priorities.
- b. Develops effective approaches for meeting Department objectives.
- c. Includes analysis of cost to achieve goals, taking into consideration the financial and technical aspects of program plans.
- d. Plans specific milestones to permit successful monitoring and control of program activities.
- e. Prepares budgets that are realistic and attainable.
- f. Uses cost control techniques effectively.

### 2. **Program Direction and communication**

- a. Articulates and communicates Department goals, relating them to achievement of specific program outcomes.
- b. Meets organizational goals on time and within budget allocations.
- c. Ensures that organizational structure facilitates program accomplishment.
- d. Determines that accounting and administrative controls achieve cost efficiency.
- e. Makes logical decisions that are understood and supported by those who are to carry them out.
- f. Keeps staff and other organizations informed about significant matters in a timely manner.
- g. Develops and maintains good working relationships with other organizations.
- h. Provides practical advice and guidance to others (including other organizations) for developing new policies and programs.

- i. Demonstrates appreciation for and appropriate responsiveness to the concerns and needs of the general public and clientele groups.

### 3. Human Resources Management

- a. Tells employees what is expected, advises them of necessary changes as job progresses and holds them responsible for timely completion of work assignments.
- b. Provides staff with continuous feedback on strengths and weaknesses of their work.
- c. Appraises staff performance accurately within Department time frames.
- d. Gives technical advice as required and reviews work promptly.
- e. Uses appropriate rewards and corrective action principles in employee management.
- f. Establishes and monitors goals for Equal Employment Opportunity (EEO) through affirmative action, particularly upward mobility, to the extent consistent with staffing needs and resource availability.
- g. Provides effective leadership in promoting aggressive management action to prevent the unnecessary escalation of employee-management disputes to formal complaints discrimination or sexual harassment. Before accepting a formal complaint assures that management has made every reasonable effort to resolve the dispute, but to no avail.

### 4. Program monitoring and Evaluation

- a. Determines that review/monitoring procedures and guidelines are clearly and concisely stated.
- b. Uses monitoring and evaluation procedures which ensure that outputs are of good quality and on time.
- c. Recognizes when current review is inadequate and makes appropriate changes.
- d. Assures that internal control systems consistent with OMB, GAO, and VA guidelines are in place and operate effectively.
- e. Third party reviews indicate a satisfactory level of program effectiveness. Assures that any required corrective actions are accomplished in a timely fashion and are effective in the majority of instances.

**December 31, 1998**

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Appendix A**

**5. Work Plan Accomplishment**

Accomplishes all or most actions in following work plan. Deviations from work plan are justified and acceptable to supervisors. Actions are accomplished at a quality level considered satisfactory or better by supervisors.



## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION G. AWARDS

#### 1. SCOPE

This section sets forth policy and procedures related to various awards which can be granted only to Senior Executives; individuals appointed under 38 U.S.C. 7306 who are not physicians or dentists and are eligible for SES awards under authority of 38 U.S.C. 7404(c); Presidential appointees who elect to continue eligibility for SES awards under the provisions of 5 U.S.C. 3392(c); and certain other executive level employees as defined in subsequent paragraphs of this section. Policies on the incentive awards available to these employees are set forth in MP-5, part I, chapter 451.

#### 2. REFERENCES

- a. 5 U.S.C. chapter 45; chapter 53, subchapter VIII.
- b. 38 U.S.C. 7306, 7404(c).
- c. 5 CFR Part 530, subpart B; 534.403; 771.105.
- d. 62 Comp. Gen. 675 (1983) and 64 Comp. Gen. 114 (1984).

#### 3. POLICY

VA will encourage and reward excellence in performance by granting appropriate awards to deserving executives. The factor used to identify award recipients will be performance. This encompasses individual performance achievements as well as the executives contribution to accomplishment of organizational and Department goals and objectives.

#### 4. LIMITATIONS

##### a. Aggregate Compensation

(1) No executive branch employee, including Senior Executives, may receive any bonus, award, allowance, differential, or other similar cash payment under title 5, United States Code, in any calendar year to the extent such payment, in combination with the employee's basic pay (whether received under title 5 or otherwise), would cause the employee's aggregate compensation to exceed the rate payable for level I of the Executive Schedule on the last day of that calendar year. (5 CFR 530.203)

(2) The limitation applies to the total amount of aggregate compensation actually received by an employee during the calendar year without regard to the period of service for which such compensation is received. (5 CFR 530.203) For purposes of establishing the aggregate amount

paid, an award is generally considered paid on the date of the Treasury check. However, if the Department can conclusively establish the actual date the employee took possession of the check, the date of possession shall govern.

(3) Any amount which may not be paid to an individual because of the above limitation shall be paid in a lump sum at the beginning of the following fiscal year and taken into account in determining the aggregate compensation for that fiscal year in accordance with 5 CFR 530.204.

**b. Calendar Year Limitations**

(1) An executive may not receive a performance award and the Presidential Rank Award of Distinguished Executive in the same calendar year.

(2) During any calendar year, the amount of a performance award approved for a meritorious Executive Presidential Rank Award recipient may not exceed 20 percent of the executives salary minus the \$10,000 Presidential Rank Award. The total amount an executive may receive for a Meritorious Executive Presidential Rank Award and a performance award may not exceed 20 percent of the executives salary.

**5. BUDGETING FOR AWARDS**

The payment of awards approved under this section will be from funds of the administration, Assistant Secretary, Deputy Assistant Secretary, or staff office employing the award recipient. In preparing its annual fiscal operating plan, each administration or staff office will consider the guidelines in this section; and, to the extent possible, estimate and provide for the funds necessary to pay any awards which may be recommended and approved. If adequate funds are not available to cover approved awards, the Office of Budget will attempt to arrange an adjustment of allocations.

**6. SES PERFORMANCE AWARDS (BONUSES)**

**a. General**

(1) SES performance awards (also referred to as bonuses) are to recognize excellence in performance by career executives. For each SES appraisal period, VA will grant a limited number of bonuses to executives who have demonstrated a high level of individual and/or organizational performance.

(2) Generally, SES performance awards will be paid in the first quarter of the fiscal year following the end of the appraisal period (i.e., before December 31).

(3) The policies set forth in this section on eligibility for SES performance awards and on the number, amount and distribution of awards, reflect the law and OPM policies in effect at the time of issuance. The Chairperson of VA PRB (Performance Review Board) may authorize deviation from these policies in response to changes in the law or OPM guidelines.

**b. Basic Eligibility Requirements**

(1) Must be a career Senior Executive; an individual appointed under 38 U.S.C. 7306 who is not a physician or dentist and is eligible for SES performance awards under authority of 38 U.S.C. 7404(c); or a Presidential appointee who elected to continue eligibility for SES performance awards under the provisions of 5 U.S.C. 3392(c).

(2) Must have been rated outstanding, excellent, or fully successful under the appraisal system established in section F of this chapter.

(3) Executives appointed within the last 90 days of the performance appraisal period who are rated based on an extension of the appraisal period, reemployed annuitants serving in covered positions, and individuals who are separated subsequent to the end of the appraisal period may be granted performance awards. However, due to the limited number of awards available, such awards should be given very careful consideration by the proposing official and the PRB.

**c. Executive Award Pools**

(1) An Executive Award Pool includes all executives who compete with one another for a specific, limited number of performance awards.

(2) The three Executive Award Pools are:

(a) The VHA (Veterans Health Administration) Executive Award Pool which includes all eligible executives within VHA, including non-physician Medical and Regional Office Center Directors.

(b) The VBA (Veterans Benefits Administration) Executive Award Pool which includes all eligible executives within VBA, except the Under Secretary for Benefits (when executive is eligible because of an election under 5 U.S.C. 3392(c)).

(c) The "All Other" Executive Award Pool which includes eligible executives outside of VHA and VBA and the Under Secretary for Benefits, if a former career Senior Executive who retained eligibility under 5 U.S.C. 3392 (c).

(3) The VA ERB will consider any guidance issued by OPM and the Secretary, and determine the maximum number and amount of awards to be granted to executives in each Executive Award Pool. Generally, the same proportion of awards to eligible executives will be assigned to each Executive Award Pool.

**d. Determining the Distribution and Amounts of Awards**

(1) The total amount of performance awards paid during the fiscal year by VA may not exceed 10 percent of the aggregate payroll (The Secretary will determine the exact percentage to be used each year.) for career executives in the Department as of the end of the appraisal period (September 30) (5 CFR 534.403(b)). Career executives are those who meet the basic criteria specified in paragraph 6b(1) of this section.

(2) Subject to the total compensation limit described in paragraph 4a, the amount of a performance award paid to an individual executive may not be less than 5 percent nor more than 20 percent of the executives rate of basic pay as of the end of the appraisal period (5 U.S.C. 5384(b)(2) and 5 CFR 534.403(c)). (NOTE: In instances where the executives rate of basic pay differs from the maximum rate payable, the payable rate shall be used to calculate the amount of the performance award.)

(3) Bonus amounts should be relative to the executives' performance contributions and should be distributed to reflect performance distinctions. Awards at or near the 20 percent maximum amount will be reserved for those executives whose contributions are truly exceptional.

**e. Identifying Agency Bonus Recipients**

(1) The following rules are to be observed in identifying bonus recipients:

(a) Performance awards are to be granted only when there is a clear demonstration that they are merited by the performance of the recipients. They are not to be used merely as supplements to basic pay.

(b) Performance awards will not be recommended or granted on a rotational basis (e.g., rewarding half of an organization's executives one year and the other half the next year, irrespective of performance).

(c) Bonuses are to be based only on service in a covered position; not on prior service as a noncareer or limited SES appointee, a General Schedule appointee, etc. If an executive proposed for a bonus has served less than a full year in a covered position, the length of service should be taken into consideration in determining the amount of the award.

(d) Generally, if a pay rate increase has been proposed for an executive in accordance with section H, paragraph 6e(3), that executive should not be considered for a bonus unless he/she was rated "outstanding."

(2) The Secretary is responsible for approving individual bonus recipients, including the amount of the award to be granted to each.

(3) The VA ERB is responsible for advising the Secretary on the Departmentwide performance appraisal/awards program and overseeing implementation of the program. This includes:

(a) Submitting recommendations to the chairperson of VA PRB on the criteria and operating procedures the VA PRB will use to process and prepare bonus recommendations; and

(b) Determining the number and amount of awards to be granted to executives in each Executive Award Pool.

(4) The VA PRB is responsible for:

(a) Issuing necessary instructions on the submission of award recommendations by the administration heads, Assistant Secretaries and staff office directors;

(b) Reviewing the award recommendations submitted, conducting such investigations as it deems appropriate; and

(c) Submitting recommendations for consideration of the Secretary.

(5) The administration heads, Assistant Secretaries and other key officials who report directly to the Secretary or Deputy Secretary, will consider the individual and organizational achievements of subordinate executives and forward recommendations on performance awards to VA PRB. Assistant Secretaries will consider the recommendations of subordinate Deputy Assistant Secretaries in preparing their recommendations. Award recommendations from the Under Secretary for Health, the Under Secretary for Benefits and the Inspector General will reflect consideration of the proposals of their respective PRBS.

(6) Each PRB is responsible for:

(a) Reviewing the performance of each executive under its purview, identifying those executives whose accomplishments are most worthy of recognition with a performance award and submitting recommendations to the Secretary, Under Secretary for Health, Under Secretary for Benefits or Inspector General.

(b) Establishing written procedures on the process used to identify those executives proposed for bonuses. These procedures will provide that:

1. Individual, and organizational performance achievements, as documented through the appraisal system established in MP-5, part I, chapter 920, section F, will be the primary criteria for identifying the executives to be proposed for awards.

2. Each PRB will consider the specific accomplishments of each Senior Executive with regard to equal opportunity employment objectives and activities relating to the prevention of sexual harassment and discrimination when identifying the executives to be proposed for awards.

3. PRB members do not participate in recommending awards for themselves: and
4. Executives superior or subordinate to PRB members are not given unfair advantage or disadvantage.
  - (7) The Deputy Assistant Secretary for Human Resources Management is responsible for:
    - (a) Providing technical and administrative support to the Secretary, VA PRB and other Department officials to facilitate the identification of bonus recipients and the payment of awards; and
    - (b) Submitting required reports to OPM on a timely basis.

**f. Recognition of Performance Award Recipients**

- (1) An appropriate certificate will be presented to performance award recipients.
- (2) Appropriate recognition of award recipients, such as award ceremonies and identification of recipients in suitable publications, should be considered.

g. Grievances and Appeals. The receipt of or failure to receive a performance award under this section is not subject to grievance (5 CFR 771.105) or MSPB (Merit Systems Protection Board) appeal. However, allegations of prohibited personnel practice in the awards process may be filed with the Office of the Special Counsel. In addition, the Federal Discrimination Complaints System (see VA Manual MP-7, pt. I, ch. 3) applies equally to SES.

**7. PRESIDENTIAL RANK AWARDS**

**a. Definitions**

- (1) Meritorious Executive: a rank awarded by the President to select executives whose performance records demonstrate sustained accomplishment. Subject to the total compensation limit described in paragraph 4a, the recipient of this rank is entitled to a lump-sum payment of 20% of base pay .
- (2) Distinguished Executive: a rank awarded by the President to select executives whose performance records demonstrate sustained extraordinary accomplishment. Subject to the total compensation limit described in paragraph 4a, the recipient of this rank is entitled to a lump-sum payment of 35% of base pay.

**b. Basic Eligibility Requirements**

- (1) Must be a career Senior Executive; an individual appointed under 38 U.S.C. 7306 who is not a physician or dentist and who is eligible for Presidential Rank Awards under authority of 38

U.S.C. 7404(c); or a Presidential appointee who elects to continue Eligibility for the Presidential Rank Awards under the provisions of 5 U.S.C. 3392(c).

- (2) May not have received the same Rank Award during the 4 previous fiscal years.
- (3) Must have a record of sustained accomplishment for a minimum period of at least 3 years.

**c. Nomination and selection criteria**

(1) The Presidential Rank Awards were established to recognize a select group of career Senior Executives who have demonstrated exceptional performance over an extended period of time. The law provide that a Distinguished Rank Award is given for “sustained extraordinary accomplishment.” A Meritorious Executive Rank Award is for “sustained accomplishment.”

(2) Distinguished and Meritorious Executives are outstanding leaders; nominees must consistently demonstrate strength, integrity, industry, and a relentless commitment to public service. Through their personal conduct and their results oriented program management, they will have established and maintained a high degree of public confidence and trust.

(3) Presidential Rank Awards are reserved for executives who have a record of achievement which is recognized throughout the agency and/or is acknowledged on a national or international level. The following criteria will be used to evaluate nominees. Describe the executive’s career achievements in each of the 5 criteria.

(a) **Leading Change:** Displayed the highest level of creativity, initiative, flexibility and innovation to produce results that are important to the American people. (Show how the nominee displayed unusual vision in leading organizations or projects which thrived over time and are consistently recognized as extraordinary.)

(b) **Results Driven:** Has an exceptional record of achieving important program results. (Provide specific examples of how the nominee improved program operations, strengthened customer service, cut red tape, and/or produced other notable results.)

(c) **Leading People:** Demonstrated unusual success in building and maintaining a workforce that is diverse, well-trained, highly motivated, and productive. (Show how the nominee leveraged the capabilities of employees and other people to build a shared vision, aligned support for the vision, and motivated and encouraged people to produce significant results.)

(d) **Business Acumen:** Managed the program’s human, financial, material, and information resources in a manner which instilled the utmost public trust and advanced the organization’s mission. (Show how the nominee optimized use of financial resources through cost reductions or cost avoidance; applied merit principles to develop, select, and manage a productive and diverse workforce; and/or used information technology systems to make significant program improvements.)

(e) Building Coalitions/Communication: Showed an unusual level of cooperative effort with others, including those in Federal agencies, other government jurisdictions, and the private and nonprofit sectors. (Demonstrate how the nominee took the initiative to reach out to all stakeholders and involve them in activities that effected them.)

(4) Generally, no more than 5 percent of the total number of eligible VA executives will be recommended to be Meritorious Executives, and no more than 1 percent will be recommended to be Distinguished Executives.

**d. Agency Nomination Process**

(1) The Secretary will:

(a) Select the Department executives to be submitted to OPM for Presidential Rank Awards. He/she may establish a Presidential Rank Award Review Committee to review nominees and prepare recommendations for his/her consideration.

(b) Submit any Department nominations for Presidential Rank Awards to OPM no later than January 22 (or other date specified by OPM) each year. If more than one executive is nominated in either the Distinguished or Meritorious category, the listing will be presented in priority order.

(2) Administration Heads, Assistant Secretaries and other key officials who report directly to the Secretary or Deputy Secretary will evaluate subordinate executives; and may submit nominations for those whose sustained accomplishments warrant recognition with a Presidential Rank Award. Assistant Secretaries will consider the recommendations of subordinate Deputy Assistant Secretaries in identifying their nominees.

(3) The Deputy Assistant Secretary for Human Resources Management will:

(a) Solicit nominations for Presidential Rank Awards; and

(b) Provide technical and administrative support to the Secretary, the Presidential Rank Award Review Committee (if one is established), and other Department officials, to facilitate identification of Department nominees and submission of recommendations to OPM.

**e. Grievance and Appeals.** Decisions on the nomination of VA executives for the rank of Meritorious or Distinguished Executive are not subject to grievance (5 CFR 771.105) or MSPB appeal. However, allegations of prohibited personnel practice in the nomination process may be filed with the Office of the Special Counsel. In addition, the Federal Discrimination Complaints System (see VA Manual MP-7, pt. I ch. 3) applies equally to the SES.

**f. Selection and Recognition.** As coordinated by OPM:

(1) Selections are made by the President on a Government-wide basis. In making selections, the President may consider the recommendations of an advisory panel established for this purpose.

(2) Executives nominated but not selected for the Distinguished Executive Rank Award are considered for the Meritorious Executive Rank Award.

(3) Award recipients are honored by appropriate ceremonies and receive suitable symbols of their achievements. (NOTE: No public announcement will be made of nomination for, or receipt of, a Presidential Rank Award until authorized by OPM.)

## **8. INCENTIVE AWARDS**

a. Incentive awards for sustained superior performance under 5 U.S.C. Chapter 45, are analogous to performance awards under paragraph 6 of this section; and may not be granted to career and noncareer Senior Executives, or individuals appointed under 38 U.S.C. 7306 who are not physicians or dentists and are eligible for SES performance awards under authority of 38 U.S.C. 7404(c).

b. Cash and honor awards may be granted to executives for suggestions, inventions, special contributions, etc., under the Department incentive awards program established in MP-5, part I, chapter 451.



## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION H. PAY, LEAVE, HOURS OF DUTY, AND BENEFITS

#### 1. SCOPE

This section sets forth policies and procedures relating to basic pay, leave, hours of duty and benefits for current, proposed or former members of the SES (Senior Executive Service).

#### 2. REFERENCES

- a. 5 U.S.C. subchapter VIII of chapter 53, chapter 55, chapter 61, chapter 63, chapter 83, chapter 87, chapter 89
- b. 5 CFR, subpart D of part 534, Part 870, Part 890

#### 3. PRESIDENTIAL APPOINTEE'S ENTITLEMENT TO SES PAY AND BENEFITS

a. Title 5 U.S.C. 3392 (c) provides that a career Senior Executive who is appointed without a break in service to a non-SES position by the President, by and with the advice and consent of the Senate, may elect to retain the provisions of the SES relating to basic pay, performance awards, awarding of ranks, severance pay, leave and retirement. For purposes of this election, the Presidential appointee may choose to receive any combination of the SES benefits listed above.

b. At the time the Presidential appointment is effected, the Office of Human Resources Management shall inform the former career Senior Executive of this entitlement; and the new Presidential appointee shall identify, in writing, which (if any) of the various benefits he or she elects to retain.

#### 4. RATE OF BASIC PAY

Unless otherwise noted, all references to "pay rates" or "rates of pay" refer to the rates of basic pay set forth in the ES Pay Schedule established by the President under authority of 5 U.S.C. 5382 (a) rather than the actual payable rate.

#### 5. COMPARABILITY PAY ADJUSTMENTS

Each rate of basic pay for the SES Pay Schedule shall be adjusted by an amount determined by the President to be appropriate at the time an adjustment takes effect under 5 U.S.C. 5305 for employees under the General Schedule. Any rates of basic pay that are established or adjusted shall supersede any prior rates of basic pay for the SES and the rates of basic pay for each Senior Executive will be adjusted accordingly. (5 U.S.C. 5382 (c) and (d))

## 6. ESTABLISHING INDIVIDUAL ES PAY RATES

### a. Approval Authority

(1) The Secretary or designee shall determine the rate of pay to be assigned to each Senior Executive outside the Office of the Inspector General. (5 U.S.C. 5383 (a))

(2) The rate of pay to be assigned to Senior Executives within the Office of the Inspector General shall be determined by the Inspector General. (5 U.S.C. 5383 (a))

b. **Recommendations.** Except for actions to be approved by the Inspector General, recommendations regarding the ES pay rate to be assigned to individual Senior Executives upon initial appointment to the SES or reassignment to a new SES position shall be forwarded to the Secretary by the nominating official through the Deputy Assistant Secretary for Human Resources Management . Similar recommendations involving Senior Executives in the Office of the Inspector General shall be concurred in by the Deputy Assistant Secretary for Human Resources Management. Recommendations for other pay rate adjustments shall be forwarded to the appropriate approval authority through the VA Performance Review Board as discussed in subparagraph e below. Recommendations shall be consistent with the policies set forth in subparagraphs c, d and e below and shall take into account any recommendations of the Executive Resources or Performance Review Board(s).

c. **Assignment of ES-5 and ES-6 Pay.** Generally, the ES-5 and ES-6 pay rates are reserved for Senior Executives assigned to the most complex SES positions within the department as determined by the Secretary. When a Senior Executive is reassigned from one of these positions to a less complex SES position, the approval authority may approve retention of the ES-5 or ES-6 pay rate.

### d. Establishing Initial Pay Rates

(1) Unless a higher rate is justified in accordance with subparagraph c above or subparagraph (2) below, the pay rate for an individual initially appointed to an SES position shall be set at ES-1; or if the individual held a civil service position immediately before appointment to the SES, at the lowest ES rate which exceeds the employee's previous basic rate of pay, not to exceed ES-4.

(2) Initial ES pay rates in excess of those described in subparagraph (1) above are appropriate when warranted by the level of responsibilities of the assignment, in anticipation of outstanding contributions to the organization by the Senior Executive, and to ease problems in recruiting a quality Executive for a position which is "hard-to-fill" because of its geographic location, unique qualification requirements, etc. A recommendation to establish an initial rate in excess of the rates described in subparagraph (1) must include appropriate justification.

**e. Pay Rate Adjustments**

**(1) Limitations**

(a) The rate of basic pay for any Senior Executive may be adjusted only once during a 12-month period. For purposes of this limitation, the initial pay rate established under subparagraph d is considered an adjustment. (5 U.S.C. 5383 (c))

(b) Pay rate adjustments will only be made at the times specified in subparagraphs (2) and (3) below except under the following conditions:

1. The Senior Executive had held an SES appointment for less than 90 days at the end of the last performance appraisal period and (in accordance with section F of this chapter) his or her performance was not evaluated;

2. The employee has completed 1 year in the Senior Executive Service; and

3. Based on an interim performance evaluation, a pay adjustment is justified in accordance with the criteria in subparagraph (3)(c) below.

(c) Pay rate adjustments may be to any higher rate or only to the next lower rate. Generally, a pay rate should be adjusted upward only one rate at a time and generally not to exceed the rate of ES-4 except when fully justified. (5 CFR 534.401)

(d) Career Senior Executives must be provided a written notice of a proposed reduction in their ES pay rate at least 15 days in advance of the effective date of the reduction. (5 U.S.C. 5383(d))

**(2) Reassignments**

(a) Recommendations to reassign a Senior Executive from one SES position to another shall be accompanied by a recommendation regarding the Senior Executive's rate of pay. If it is determined that a pay rate adjustment is appropriate in conjunction with the criteria discussed below, a positive recommendation should be made, even if the Senior Executive is ineligible for an immediate pay adjustment because of the limitation discussed in subparagraph (1)(a) above. In such instances, the approval authority may approve a pay adjustment to be effective at the time the Senior Executive becomes eligible.

(b) Adjustments to higher ES pay rates, generally not to exceed ES-4, are appropriate when the Senior Executive is being reassigned to a more responsible position or to a position which is "hard-to-fill" because of its geographic location, unique qualification requirements, etc. When an upward pay rate adjustment is recommended in conjunction with a reassignment, the recommendation must include appropriate justification.

(c) When a Senior Executive requests a reassignment primarily for his or her own personal reasons and benefit and the reassignment is to an SES position which entails a substantially lesser scope and level of responsibility, a downward pay rate adjustment may be warranted. However, if the reassignment is to fulfill a “management need” no downward adjustment shall be made.

**(3) Annual Pay Rate Review**

(a) Concomitant with the performance appraisal process described in section F of this chapter, the appropriateness of the ES pay rate assigned to each Senior Executive whose performance is evaluated will be reviewed. The pay rate review for Senior Executives under the purview of the VHA or VBA Performance Review Boards will be conducted by the appropriate Performance Review Board. The pay rate review for all other Senior Executives will be conducted by the employing staff office or administration in accordance with instructions provided by the VA Performance Review Board. If justified in accordance with the criteria in subparagraph (c) or (d) below, the Administration Performance Review Board or the administration/staff office head may propose appropriate pay rate adjustment(s) to the VA Performance Review Board. The VA Performance Review Board will consider all proposed pay rate adjustments and forward its recommendations to the appropriate approval authority at the same time its recommendations on SES performance ratings and awards are forwarded to the Secretary.

(b) If it is determined that a pay rate adjustment is appropriate, a positive recommendation should be made even if the Senior Executive is ineligible for an immediate adjustment because of the limitations described in subparagraph (1)(a) above. In such instances, the approval authority may approve a pay adjustment to be effected at the time the Senior Executive becomes eligible.

(c) A recommendation to raise a Senior Executive’s ES pay rate may be submitted if the Senior Executive is rated “fully satisfactory” or higher. Such recommendations should not be perfunctory. Rather, they shall be based on a careful assessment of the Senior Executive’s performance during the rating period and the extent to which that performance enhanced accomplishment of the organization’s mission. Factors such as the extent to which the Senior Executive improved efficiency, productivity, quality of work or services, and timeliness of performance within the work unit should be considered.

(d) A recommendation to lower a Senior Executive’s ES pay rate may be submitted if the Senior Executive is rated minimally satisfactory or unsatisfactory.

**7. SALARY PROTECTION-CHARTER MEMBERS**

SES charter members (individuals converted to the SES on July 13, 1979) are guaranteed a minimum salary rate equal to their payable rate immediately before conversion to the SES while serving in the Senior Executive Service. (5 CFR 534.402)

## 8. MAXIMUM PAY LIMITATION

In accordance with section G of this chapter, career Senior Executives may be paid lump-sum performance awards and/or lump-sum Presidential Rank Awards in addition to their basic pay. However, the aggregate amount paid to a Senior Executive during any fiscal year for basic pay, a performance award, a Presidential Rank Award or a physicians comparability allowance payable under 5 U.S.C. 5948 shall not exceed the annual rate payable for level I of the Executive Schedule in effect at the end of such fiscal year. (5 U.S.C. 5383(b))

## 9. BASIC PAY UNDER GUARANTEED PLACEMENT PROVISIONS

a. **Career Appointees.** A career appointee (1) who was appointed to the SES from a civil service position held under a career, career-conditional or career-type appointment, and who for reasons other than misconduct, neglect of duty, or malfeasance is removed from the SES during the probationary period, or (2) who is removed from the SES for less than fully successful executive performance as determined under the performance appraisal system established in section F of this chapter, shall be placed in a continuing position at GS-15 or above of the General Schedule or an equivalent position. (5 U.S.C. 3594, 5 CFR 359.701 and 702)

b. **Basic Pay Entitlement.** Any career appointee placed as specified in subparagraph a above shall be entitled to receive basic pay at the highest of:

(1) The rate of basic pay in effect for the position in which placed;

(2) The rate of basic pay currently in effect for the position which the appointee held in the civil service immediately before being appointed to the SES; or

(3) The rate of basic pay in effect for the appointee immediately before being removed from the SES as specified in subparagraph a above. (5 U.S.C. 3594(c)(1), CFR 359.701 and 702)

c. **Future Adjustments.** An employee who is receiving basic pay under subparagraph b(2) or (3) above is entitled to have his/her basic pay rate increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position in which placed under subparagraph a above until the rate is equal to or less than the maximum rate for the grade. (5 U.S.C. 3594(c)(2))

## 10. PREMIUM PAY

Members of the Senior Executive Service are not entitled to any form of premium pay including overtime, compensatory time off, nightwork, standby, hazardous duty differential, Sunday work, or holiday work. (5 U.S.C. 5541)

## 11. SEVERANCE PAY

Career Senior Executives are entitled to severance pay in accordance with the provisions of MP-5, part 1, chapter 550, section G. Senior Executives under noncareer, limited term or limited emergency appointments are not entitled to severance pay. (5 U.S.C. 5595(a)(2), 5 CFR 550.701)

## 12. COMPUTATION OF PAY

Pay periods for a Senior Executive cover 2 administrative workweeks. Pay will be computed in accordance with 5 U.S.C. 5504(b). (5 U.S.C. 5504)

## 13. HOURS OF DUTY

a. **Full-Time.** The normal tour of duty for each full-time Senior Executive shall be the 40-hour basic workweek established for the VA facility to which the Senior Executive is assigned. Senior Executives are expected to be on duty during the full period of their tours of duty unless on approved leave or officially excused. Upon notification by proper authority, Senior Executives shall be on duty or available for duty at all other times as required. (Senior Executives are excluded from the provisions of 5 U.S.C. 5541(2) and 6101(a)(1).)

b. **Part Time.** Part-time Senior Executives shall be on duty, unless in an approved leave status or officially excused by proper authority, for the officially prescribed days and hours for which the part-time Senior Executive is regularly scheduled.

c. **Administrative Workweek.** In this chapter administrative workweek, basic workweek and regularly scheduled Administrative workweek have the same meaning as set forth in MP-5, part 1, chapter 610, paragraph 4.

## 14. LEAVE

a. **General.** Annual and sick leave will be earned and used in accordance with the provisions of 5 U.S.C. chapter 63. Policies and guidelines to be used in administering the leave provisions of the SES are contained in MP-5, part 1 chapter 630.

### b. Accrual of Annual Leave

(1) Annual leave accrued by an individual while serving under a Senior Executive Service appointment shall not be subject to the limitation on accrual imposed by 5 U.S.C. 6304. (5 U.S.C. 6304(f), 5 CFR 630.30 1)

(2) Annual leave accrued for any pay period during only a portion of which the employee served under an appointment to the Senior Executive Service shall be prorated, and only that portion of the leave that is attributable to the service in the Senior Executive Service shall not be subject to the limitations on accumulation of annual leave.

(3) When an individual who has been serving under an appointment to the Senior Executive Service moves to a position in which he or she is no longer in the Senior Executive Service, any annual leave which was accumulated while serving in the Senior Executive Service, and which is in excess of the amount allowed by subsection (a), (b), or (c) of section 6304 of title 5, United States Code, shall remain to the employee's credit and shall be subject to reduction under procedures identical to those described in subsection (c) of section 6304.

## 15. HOLIDAYS

Generally it is VA policy to excuse from duty on legal public holidays all Senior Executives except those required to maintain the usual essential services. Senior Executives who are notified to appear for duty on legal public holidays and fail to report for work will be, in the absence of satisfactory explanation or justification, determined to be AWOL (absence without leave) and will lose pay for the day. (5 U.S.C. 5541(2), 6101 and 6103)

## 16. RETIREMENT

a. **Career Appointees.** Career appointees in the Senior Executive Service are covered by the civil service retirement system. (5 U.S.C. ch. 83)

b. **Limited Term and Limited Emergency Appointees.** Employees serving under limited term or limited emergency appointments in the Senior Executive Service are excluded from coverage under the civil service retirement system unless appointed without a break in service of more than 3 days from a covered type of appointment. (5 CFR 831.201)

c. **Noncareer Appointees.** Noncareer Senior Executives (except those appointed without a break in service of more than 3 days from a covered type of appointment) may elect to be excluded from the civil service retirement system. Such individuals are to be designated as noncareer "indefinite" appointees. Other noncareer appointees (whose appointments are not designated as "indefinite") will receive retirement coverage. At the time of appointment, new noncareer appointees must elect whether or not they choose the "indefinite" designation. (5 CFR 831.201)

d. **Reemployed Annuitants.** Civil service annuitants who are reemployed in the Senior Executive Service are subject to the reemployment provisions outlined in FPM chapter 300, subchapter 7 and FPM Supplement 831-1, subchapter S15, "Reemployment of Retired Employees."

## 17. HEALTH BENEFITS AND LIFE INSURANCE

If otherwise eligible, career appointees in the Senior Executive Service and noncareer, limited term and limited emergency appointees whose appointments are not limited to 1 year or less are entitled to coverage under the Federal Employees Health Benefits and Federal Employees Group Life Insurance Programs in accordance with the provisions of 5 CFR Parts 870 and 890.

## 18. EMPLOYMENT OUTSIDE THE CONTINENTAL UNITED STATES

Senior Executives with an official duty station located outside the continental United States, if otherwise eligible, are covered by the provisions of MP-5, Chapter 301, this part.

## 19. SALARY RETENTION

a. **Authority:** Under the provisions of 5 CFR 536.104(b), the Secretary may authorize salary retention for a Senior Executive who voluntarily accepts a GS - 15 position following receipt of a general Reduction In Force (RIF) notice or a notice of position abolishment.

### b. Determination of Pay Rate

(1) The basic rate of pay retained under this paragraph shall be the ES rate the employee received prior to conversion from the Senior Executive Service, subject to the limitation in subparagraph (4) below.

(2) When an increase in the scheduled rates of the grade of the employee's position occurs while the employee is under pay retention, the employee is entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the grade of the employee's current position.

(3) When as a result of an increase in the scheduled rate(s) of the grade of the employee's position, an employee's retained rate of basic pay becomes equal to or lower than the maximum rate of that grade, the employee is entitled to the maximum rate of that grade and pay retention ceases.

(4) In accordance with 5 CFR 536.205, pay retention may not exceed 150 percent of the maximum rate of basic pay for grade GS-15.

## CHAPTER 920. SENIOR EXECUTIVE SERVICE

### SECTION I. EXECUTIVE DEVELOPMENT

#### 1. PURPOSE

This section contains information relative to the development of individuals for and within the SES ( Senior Executive Service). This issuance is in accordance with 5 U.S.C. 3396.

#### 2. POLICY

It is VA policy to provide, within the constraints established by available resources, appropriate developmental opportunities for VA executives and individuals competitively selected as candidates for executive positions within VA. Such opportunities will be provided to ensure the effectiveness of, and to meet the replacement needs for, VA's executive personnel resources. Also, such opportunities will be provided without regard for race, color, age, religion, sex, national origin, handicap, lawful political affiliation, or other non-job-related factors and will reflect VA's earnest commitment to promote equal employment opportunity and to build a diverse executive corps that reflects the diversity of the labor force.

#### 3. REFERENCES

- a. 5 U.S.C. 3396. "Development for and Within the Senior Executive Service."
- b. 5 CFR, Part 412. "Executive and Management Development."
- c. 29 CFR. Part 1613. "Equal Employment Opportunity in the Federal Government."

#### 4. PROGRAM ADMINISTRATION

##### a. Executive Resources Boards

(1) As indicated in Section B, VA's Executive Resources Board (ERB) is responsible for Department-wide oversight of VA executive and management development programs.

(2) The Executive Development Committee (EDC) of VA's ERB is responsible for overseeing and administering the SES Candidate Development Program established in paragraph 7 and advising the Chairperson of VA's ERB on other executive and management development activities.

(3) The Veterans Benefits Administration ERB and the Veterans Health Administration ERB are responsible for administering executive and management development activities for their respective organizations, as set forth in this section and as directed by the Under Secretary for Benefits or the Under Secretary for Health.

**b. Deputy Assistant Secretary for Human Resources Management**

(1) Plans, designs, administers and evaluates developmental programs and courses, as appropriate, to meet the developmental needs of executives and candidates VA-wide.

(2) Operates as the contact with OPM, other Federal agencies and private sector organizations on issues and programs having Departmentwide impact.

**c. Administration Heads, Assistant Secretaries and Other Key Officials.**

(1) Within the framework of the Departmentwide system, plan, design, administer and evaluate developmental programs and courses, as appropriate, to meet the developmental needs of executives and candidates within their respective organizations.

(2) Provide advice and guidance to subordinate organizations on policies and programs covered by this issuance.

**5. CONTINUING DEVELOPMENT OF EXECUTIVES**

a. Appointment as an executive in VA is a mark of high qualifications in regard to work experience and, most importantly, demonstrated career success. Both the Department and individual executives have the responsibility to assure that there is continual maintenance and growth of the knowledge, skills, and abilities related to executive roles. This growth will assure that the job performance of VA executives and their resultant contribution to the Department's mission will be continually heightened. Continuing development is one way of carrying out this goal.

b. Continuing development is self-directed learning in response to needs which the individual executive or the organization has identified. The objectives of continuing development will be different for each executive, but can include:

(1) Meeting the need to regularly update technical or highly specialized knowledges on program and policy matters.

(2) Providing opportunities for renewal and for gaining insights into new ways of dealing with management problems.

(3) Helping plan for future demands created by new programs or responsibilities.

(4) Completing activities which satisfy needs identified through the performance appraisal cycle.

(5) Maintaining awareness of external issues which impact on the mission of the Department or the executive's organization.

(6) Maintaining awareness of equal employment opportunity objectives and goals.

c. The identification of each executive's developmental needs is an important step in the continuing development process. This is most effectively carried out by the individual executive and his/her supervisor, in conjunction with the performance appraisal process. In addition, the following sources of information may be useful in identifying developmental needs:

(1) Goal statements, fiscal year plans and other organization documentation.

(2) Discussions with other executives.

(3) Discussions with executive development staff.

d. Once developmental needs have been identified, SES members shall prepare plans for meeting these needs. A variety of planning methods is available, including a formal IDP Individual Development Plan (IDP), VA Form; 5-4692.) or a brief statement attached to the annual performance plan. Administrations or staff offices, may determine appropriate strategies for monitoring the development of SES members within their own organizations.

e. One way in which executives may meet their individual development needs is through participation in formal developmental activities such as:

(1) Special courses, programs and seminars offered through a college or university.

(2) Interagency short-term courses, such as those conducted by OPM's Federal Executive Institute or Executive Seminar Centers.

(3) Special programs, such as intergovernmental mobility assignments.

(4) Offerings of the VA Office of Human Resources Management, such as the Policy and Legislation Seminar.

(5) Other training sponsored by the administrations and staff offices.

f. Alternatives to formal training, which may be more job related and make better use of available time and funds, include:

(1) Investigating non-Federal approaches to technical professional or management-related issues.

(2) Serving as senior advisor or coach to subordinates or other personnel.

(3) Participating in self-directed reading programs.

(4) Participating as an assessor in VA-conducted assessment centers.

- (5) Performing short-term developmental assignments in other positions.
- (6) Exchanging information with other Federal agencies.
- (7) Developing skills appropriate to meet public and consumer affairs demands of executive positions.
- (8) Participating as a speaker or panel member in seminars or training programs.

## **6. SABBATICALS**

a. A sabbatical is a period of time away from the job (up to 11 months) during which a member of the SES engages in study or uncompensated work experience. Sabbaticals are authorized to be granted to members of the SES by 5 U.S.C. 3396(c). Sabbaticals may include, but are not limited to, such activities as:

- (1) Teaching, study or research at an academic institution.
- (2) Non-institutional study or research.
- (3) Work experience in the private sector, with non-profit organizations or with State, local or foreign governments.

b. To apply for a sabbatical, an individual must be a career SES appointee and meet certain other criteria specified in 5 U.S.C. 3396(c).

c. Prior to submission of a sabbatical proposal, SES members are encouraged to consult with the Office of Personnel and Labor Relations to obtain detailed information.

d. Proposals for sabbaticals, including the written endorsement of the appropriate line official, will be evaluated by the EDC of the VA Executive Resources Board. After considering the merit of the proposal, the Board will make recommendations to the Secretary.

e. Each proposal will receive careful consideration, and decisions will be made on the basis of which proposals contribute most to the development of the individual and to the overall effectiveness of VA.

## **7. VA SENIOR EXECUTIVE SERVICE CANDIDATE DEVELOPMENT PROGRAM**

### **a. General**

(1) VA's SES Candidate Development Program (CDP) is a formally structured developmental program for individuals who demonstrate outstanding executive potential. The purposes of the CDP are:

(a) To identify individuals who possess the basic attributes necessary for becoming skillful and competent senior executives.

(b) To provide formal training and developmental opportunities, designed to enhance and augment candidates' basic managerial skills, competencies, and characteristics.

(c) To provide candidates a breadth of knowledge regarding the mission of the Department and thereby foster senior executive mobility among VA programs.

(d) To create a pool of candidates eligible for noncompetitive placement in SES positions.

(2) The Department's CDP has three components. They are: (a) Veterans Health Administration (VHA) CDP, which will focus on the development of candidates for Medical Center Director positions. and other VHA positions; (b) Veterans Benefits Administration (VBA) CDP, which will focus on the development of candidates for Regional Office Director positions. and other VBA positions; and, (c) All Other (AO) CDP, which will focus on the development of candidates for SES positions outside of VHA and VBA.

#### **b. Program Oversight and Administration**

(1) **Program Oversight:** The Executive Development Committee (EDC) of VA's ERB will oversee the Department's CDP. The EDC will approve plans for the VHA, VBA, and AO CDPS, authorize program announcements, make recommendations to the Secretary on proposed CDP selections, and monitor program operations in order to ensure compliance with OPM and VA policy and to recommend program improvements.

#### **(2) Program Administration**

(a) The EDC and the Executive Resources Boards (EDC/ERBs) established in Section B for the Veterans Health Administration and the Veterans Benefits Administration are responsible for the administration of their respective CDPs in order to maintain a pool of well qualified candidates for SES positions under their purview.

(b) The EDC/ERBs are responsible for performing the following operational functions relative to their Candidate Development Programs:

1 Assessing executive manpower needs, at least biennially.

2 Recommending initiation of their respective CDPs when necessary to ensure an adequate supply of candidates for projected SES vacancies.

3 Evaluating applicants for their respective CDPs based on merit staffing principles and proposing candidate selections.

4 Approving their candidates' Individual Development Plans (IDP).

5 Monitoring their candidates' progress and performance during the CDP and recommending program modification or termination, if appropriate.

6 Certifying their candidates' successful completion of the CDP.

7 Attempting to identify suitable vacancies in which to place certified candidates.

(c) The EDC/ERBs are responsible for the development of plans that detail the procedures each will use to execute the above activities and describe any program activities that will be required beyond the basic OPM and VA requirements

1 Develop and interpret CDP policies

2 Provide technical advice to the EDC/ERBs and other Department officials on the CDP. This includes assisting in the development and application of structured interview materials, if appropriate.

3 Provide administrative support to the EDC.

4 Develop and issue CDP announcements.

5 Administer the CDP Orientation Seminar, Human Resources Seminar, and Leadership VA program.

6 Facilitate developmental opportunities that enhance candidates' knowledge of the broad range of VA required programs.

7 Facilitate participation of candidates in required non-VA program activities ( e.g., the Executive Development Seminar

8 Maintain CDP data and report to VA management and OPM as required.

9 Serve as liaison with OPM on CDP activities

**(3) Program Funding**

(a) VHA and VBA will bear costs associated with the selection processes (i.e., structured interviews or assessment centers) designed for their respective CDP participants. OP&LR will fund costs associated with the AO CDP selection process.

(b) The Office of Human Resources Management will bear contract costs associated with the Orientation and Human Resources seminars and Leadership VA program. Travel and per diem

costs associated with these required activities will generally be paid by candidates' respective employing organizations.

(c) Generally, candidates' employing organizations will fund all other costs associated with other developmental.

**c. Program Announcement**

**(1) Biennial Review**

(a) By March 31 of each even-numbered calendar year, the EDC/ERBs will assess their SES staffing requirements for SES positions under their purview and report their requirements to the EDC Chairperson. Their reports will include a recommendation on whether a CDP should be announced for the current calendar year or deferred, based on their assessments.

(b) The EDC Chairperson will consider the recommendations submitted in conjunction with the biennial review and determine whether one or more CDP components will be announced.

**(2) CDP Announcement**

(a) Individual announcements may be issued for one or more of the three CDP components; however, they will be issued simultaneously if it is determined that announcement of more than one component is required.

(b) OHRM will coordinate the development, printing, and distribution of CDP announcements. This includes requesting the listing of the announcement in OPM's biweekly report "Senior Executive Service Vacancy Announcements."

(c) CDP announcements will include the following information:

- 1 A summary of the program characteristics.
- 2 A brief description of the target positions for which candidates will be developed.
- 3 Opening and closing dates (see par. C(2)(d)).
- 4 Area of consideration (options are all civil service employees or all qualified persons).
- 5 Evaluation Criteria (see par. d(1)).
- 6 Summary of the methods used to evaluate applicants (see par. d(3)).
- 7 Description of application materials and procedures.
- 8 The name and telephone number of a contact person for additional information.

9 A statement documenting VA's commitment to equal employment opportunity.

(d) CDP announcements will be open for a minimum of 30 days.

**d. Candidate Evaluation and Selection**

(1) Candidates will be evaluated on their education, training, demonstrated experience, and potential ability in the six executive/managerial activity areas that are common to most SES positions. The activity areas are:

(a) Integration of Internal and External Program/Policy Issues.

(b) Organizational Representation and Liaison.

(c) Direction and Guidance of Programs, Projects and Policy Development.

(d) Acquisition and Administration of Financial and Material Resources.

(e) Utilization of Human Resources.

(f) Review of Implementation and Results.

The major competencies associated with these activity areas are outlined in Section D, Appendix A.

(2) Applicants will be required to submit SF 171 and 171a. "Application for Federal Employment," a narrative addressing their qualifications and/or potential in the six executive/managerial activity areas, a current performance appraisal, and a supervisory letter of endorsement. which must specify applicants' qualifications and potential in the executive/managerial activity areas and be completed or concurred in by a member of the SES, an equivalent, or a higher level executive. Because CDP selections are based on merit staffing procedures, the applicant's employing organization should not pre-screen applications forwarded for consideration. Application materials for the VHA, VBA, and AO components of the CDP will be forwarded to the staff responsible for providing technical and administrative support to the respective EDC/ERBs.

(3) Details on the applicant evaluation process will be set forth in the CDP plans required by paragraph b(2)(c). At a minimum, the process will include:

(a) Screening of applications for basic eligibility by the respective EDC/ERB support staffs.

(b) Evaluation of the applicants' qualifications by a panel of individuals familiar with the target positions and identification of those whose experience and education demonstrate executive potential.

(c) A formal assessment of well-qualified applicants at an assessment center, or through the use of structured interviews and/or other evaluation techniques.

(4) The EDC/ERBs are responsible for reviewing the results of their respective components' applicant screening processes and for preparing written recommendations on selection of applicants. The number of applicants recommended for selection will be no greater than twice the number of projected vacancies. Recommendations will be forwarded to the Secretary through the appropriate administration or office head, as well as the Chairperson of the VA ERB Executive Development Committee.

(5) The Secretary is the approving official for the selection of all CDP participants.

**e. Program Characteristics**

**(1) General**

(a) Typically, a CDP will operate approximately 18-24 months, depending on the needs of the individual candidates. During the program, candidates who are VA employees will continue to work in the position held at the time of selection, unless assigned to another job. Candidates selected from outside VA will be appointed to positions that are established especially for them as candidates in the program.

(b) The program will focus on developmental activities that provide candidates specific, significant opportunities to acquire needed knowledges, skills, and/or abilities and enhance existing knowledges, skills, and abilities in order to perform satisfactorily as senior executives. In addition to required program elements, each candidate will participate in activities designed to meet his or her unique developmental needs.

**(2) Requirements**

(a) The U.S. Office of Personnel Management requires of candidates:

1. The assignment of a Senior Advisor (i.e., a member of the SES who will serve as the candidate's primary advisor with respect to identifying his or her developmental needs and ways to meet those particular needs).

2. The development of an IDP in consultation with his or her Senior Advisor and approved by the appropriate ERB

3. Participation in a "current, formal, interagency executive-level training experience," such as the:

a. "Executive Development Seminar," offered by OPM.

b. "Contemporary Executive Development" seminar, offered by George Washington University.

c. "Key Executive" program. offered by American University.

d. "Senior Executive Fellows Program," offered by Harvard University.

e. National War College's regular program.

f. Industrial College of the Armed Forces' regular program.

g. "Senior Executive Seminar," offered by Carnegie Mellon Institute.

(b) Each candidate must complete the following VA program requirements.

1. Participation in the VA Orientation Seminar.

2. Participation in Leadership VA.

3. Participation in the VA Human Resources Seminar.

4. Completion of at least one IDP activity that exposes the candidate to management operations in a VA organization other than the candidate's employing organization.

(3) **Individualized Program Activities:** The following activities are examples of the kinds of developmental opportunities that are designed according to an individual candidate's particular developmental needs and goals. These activities include experiences of the same nature as those suggested for executives in Section 1, paragraphs 5e and 5f, and, may also include the following:

(a) Details, rotational and mobility assignments. and other individually tailored (i.e., candidate-specific) work assignments, executed on either an interagency or intra-agency basis.

(b) Task force, committee, understudy, and "shadow" assignments.

(c) Tailored work projects, studies, and analyses.

(d) Coaching by executives.

**f. Completion and SES Certification**

(1) A candidate is considered as having completed a Candidate Development Program when he or she has successfully completed all mandatory OPM and VA requirements, and the individualized activities contained in his or her IDP.

(2) A candidate who successfully completes the CDP may submit a written request, through his or her senior advisor, for review of his or her SES qualifications by the appropriate EDC/ERB and an OPM Qualifications Review Board (QRB).

(3) The respective EDC/ERB will review the candidate's IDP to determine that all developmental objectives have been met. If the EDC/ERB judges that all objectives have been met, it will certify the candidate's successful completion of the CDP and forward the request to the Vice Chairperson, VA ERB for submission to OPM. This request must include a fully documented IDP substantiating successful completion of program activities.

(4) The Vice Chairperson, VA ERB, will submit a written request for QRB certification to OPM on behalf of the EDC/ERBs.

(5) When the QRB approves the request for certification, the Vice Chairperson, VA ERB, will notify the respective EDC/ERB of the disposition of the request. The approval of a candidate's executive qualifications by the QRB will be valid for three (3) years.

(6) Within three (3) years of the QRB's certification of the candidate's executive qualifications, a candidate may be appointed, without competition, to an SES position for which he or she is fully qualified.

(7) While it is anticipated that individuals who successfully complete the program will have potential for advancement, such advancement to executive positions is not guaranteed. An individual's selection for an executive position will depend on the existence of a suitable vacancy, the individual's overall qualifications, performance in his or her present position, and mobility. Accordingly, QRB-certified candidates will be a readily available resource for meeting VA executive replacement needs.



**CHAPTER 920. SENIOR EXECUTIVE SERVICE****SECTION K. REDUCTION IN FORCE AND FURLOUGH****1. SCOPE**

This section sets forth the policies and procedures which will be applied to determine which career Senior Executives will be affected under circumstances calling for SES (Senior Executive Service) RIF (reduction in force) or furlough.

**2. REFERENCES**

- a. 5 U.S.C. 3592, 3594, 3595.
- b. 5 CFR, part 359

**3. COVERAGE AND EXCLUSIONS**

The policies described in this section apply to SES career appointees, including those who have not completed the SES probationary period. Noncareer, limited term and limited emergency appointees and reemployed annuitants serving under SES career appointments are not competing employees for purposes of this chapter, and may be released at any time at the discretion of the approving authority. Nonphysician Medical Center and Medical and Regional Office Center Directors appointed under authority of 38 U.S.C. 4103(a)(8) are also excluded from this section.

**4. DEFINITIONS**

a. **Reduction in Force.** The competitive process used to determine which career Senior Executive(s) will be removed from the SES due to the elimination or modification of a position due to a reorganization, lack of funds or curtailment of work, or due to any other factor.

b. **Furlough.** The placement of a Senior Executive(s) in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

c. **Surplus Executive.** An executive who occupies a position identified for abolishment.

d. **Displaced Executive.** An executive who is released from his/her competitive group through RIF.

e. **Competitive Group.** All positions under the jurisdiction of the VA PRB (Performance Review Board), VHA (Veterans Health Administration) PRB, VBA (Veterans Benefits Administration) PRB or the OIG (Office of Inspector General) PRB which are so similar in duties, responsibilities and technical qualification requirements that an executive in one position can be assigned to any of the other positions without unduly interrupting program operations.

f. **Retention Register.** A listing of Senior Executives by retention standing within a competitive group. (Retention standing is determined in accordance with par. 5d.)

## 5. REDUCTION IN FORCE

a. **General Policy.** Before initiating RIF procedures, the VA will make a concerted effort to reassign employees who occupy surplus positions to appropriate vacant SES positions or facilitate other appropriate actions, such as transfers to other agencies or voluntary changes to non-SES positions. If a RIF becomes necessary, all executives shall be accorded fair and equitable treatment, consistent with applicable laws and policies.

### b. Program Responsibilities

(1) Administration heads, Assistant Secretaries, Deputy Assistant Secretaries and office heads who report to the Office of the Secretary will:

(a) Identify surplus SES position(s) within the organization.

(b) Determine that no vacant SES positions exist within that administration or office to which the surplus executive(s) can be reassigned.

(c) Recommend initiation of RIF procedures.

(2) The Deputy Secretary will:

(a) Approve the assignment of each SES position to a competitive group.

(b) Review the recommendations of administration heads, Assistant Secretaries, Deputy Assistant Secretaries and office heads who report to the Office of the Secretary made in accordance with paragraph 5b(1) above.

(c) Ascertain that no appropriate SES positions are available within the department for placement of surplus career executives.

(d) Authorize the initiation of competitive RIF procedures to identify the executive(s) subject to removal.

(3) The Deputy Assistant Secretary for Human Resources Management will:

(a) Provide technical advice and assistance on RIF policies and procedures to department officials.

(b) Make recommendations on the assignment of SES positions to competitive groups.

(c) Coordinate implementation of RIF procedures including the development of retention registers.

(d) Issue RIF notices to affected executives.

(4) The Secretary will certify to the OPM that there are no VA SES vacancies in which displaced nonprobationary executives may be placed.

(5) The Secretary or the Inspector General, as appropriate, will approve the separation of career executives due to RIF and subsequent placement actions.

**c. Competitive Groups**

(1) A competitive group includes all positions under the jurisdiction of the VA PRB, the VHA PRB, the VBA PRB or the OIG PRB which are so similar in duties, responsibilities and technical qualification requirements that an executive in one position can be assigned to any of the other positions without unduly interrupting program operations.

(2) The competitive group to which a position is assigned will be reviewed and appropriately amended whenever the duties, responsibilities and technical qualification requirements of the position are significantly changed or when it or another position in its competitive group is declared surplus.

(3) The Deputy Secretary, considering the recommendations of the employing office and the OHRM (Office of Human Resources Management), will designate the competitive group to which each SES position is assigned. This position's competitive group will be noted on the official position description. *(NOTE.- All SES positions will be assigned to a competitive group regardless of the status of the current appointee.)*

**d. Retention Registers.** An executive's standing on the retention register will be based primarily on performance ratings assigned under the Performance Evaluation System established in section F of this chapter or under an approved SES performance evaluation system in another agency.

(1) Each executive's retention standing within the competitive group will be based on the total number of performance points assigned to him/her in accordance with the following formula:

(a) Assign the following points for each official SES performance rating approved for the last three SES appraisal periods:

- 1. Outstanding ..... 5 points
- 2. Highly Satisfactory ..... 4 points
- 3. Fully Satisfactory ..... 3 points
- 4. Minimally Satisfactory ..... 1 point
- 5. Unsatisfactory..... 0 points

*NOTE.- Presumed fully satisfactory ratings will be credited with 3 points.*

(b) Assign 2 points for each year during the 3-year period under consideration that the executive did not receive an SES performance rating.

(c) Total the points assigned under subparagraphs (a) and (b) above.

(2) Executives will be placed on the retention register in descending order of total performance points.

**e. Release From Competitive Group**

(1) Executives will be released from their competitive groups in inverse retention standing order. When two or more executives are tied in retention standing, the executive with the highest current SES rating of record will be retained. If executives are still tied, length of career SES service will determine retention. If still tied, the executive with the earliest service computation date will be retained.

(2) When the executive(s) identified for release from a competitive group is not the executive(s) who occupies the position(s) in the group which was declared surplus, the appropriate reassignment(s) will be directed in accordance with law, OPM regulations and department policy.

**f. Placement Rights**

(1) **General.** A displaced career executive who has completed the SES probationary period has assignment rights to a vacant SES position for which he/she is qualified either within the VA or in another agency. Displaced executives who have not completed the SES probationary period have no assignment rights to SES vacancies.

**(2) Agency Placement Procedures**

(a) When a nonprobationary executive is identified for release from his/her competitive group, the OHRM will review all vacant SES positions within the department to determine if the employee is qualified for reassignment to any such positions. This review will be fully coordinated with appropriate line officials.

(b) If a suitable position is available the executive will be reassigned to it in accordance with law, OPM regulations and department policy on directed reassignments. If more than one executive is released at the same time, the Secretary (based on the recommendations of the administration heads, Assistant Secretaries, and staff office directors) or Inspector General, as appropriate, will determine on the basis of technical qualifications which executive(s) will be reassigned to the available position(s).

(c) If it is determined that there are no vacant SES positions within the department for which the displaced executive is qualified, the Secretary will submit a written certification to the OPM.

**(3) OPM Placement Responsibilities**

(a) If there are no vacant VA positions for which the appointee is qualified, OPM shall place the displaced executive in any agency in any vacant SES position unless the head of that agency determines that the executive is not qualified for that position. OPM may require an agency to take any action it considers necessary to carry out such placement.

(b) If the displaced executive declines a reasonable offer for placement in an SES position under the above paragraph or OPM has not placed the executive within 45 days after receiving certification regarding the executive under subparagraph (2)(c) above, the executive shall be removed from the SES.

**g. Removal From the SES and/or the Civil Service**

**(1) Probationary Executives**

(a) A probationary executive who held a career, career conditional, or equivalent excepted appointment immediately prior to SES appointment and is removed from SES by RIF is entitled to placement in a continuing position at GS-15 or above or an equivalent position. (If so removed, the executive's salary will be determined in accordance with sec. H. par. 9.)

(b) A probationary executive who did not hold a career, career-conditional or equivalent appointment immediately prior to his/her appointment to the SES has no placement rights and will be removed from the SES and the civil service.

**(2) Nonprobationary Career Executives**

(a) Career executives who have completed the 1-year SES probationary period required by 5 U.S.C. 3393(d) or who were exempt from the probationary requirement cannot be removed until placement efforts cited in paragraph 5f have been exhausted.

(b) An executive who fails to accept a directed reassignment to an SES position in the agency, as provided in paragraph 5f(2)(b), is subject to removal from the civil service in accordance with 5 U.S.C. 7543.

(c) An executive who, under paragraph 5f(3) above, declines a reasonable placement offer or who cannot be placed within the 45 day OPM placement period is subject to removal from the SES in accordance with 5 U.S.C. 3595. Such executive is entitled to placement in a continuing position at GS-15 or above or an equivalent position. (If so removed, the executive's salary will be determined in accordance with sec. H. par. 9.)

**h. Retirement Eligibility**

(1) A surplus executive who has received notice that his/her position will be abolished and has not received a reasonable offer for placement may apply for discontinued service retirement under 5 U.S.C. 8336(d) if he/she resigns prior to the effective date of the separation notice and meets the age and service requirements.

(2) A displaced executive involuntarily separated from the SES and offered placement in a continuing position at GS-15 or above under subparagraph g (1)(a) and (2)(c) above may apply for discontinued service retirement under 5 U.S.C. 8336(d) if he/she meets the age and service requirements.

(3) An executive who, under subparagraph g(2)(b) above, fails to accept a directed reassignment to an SES position outside his/her commuting area may apply for discontinued placement service retirement under 5 U.S.C. 8336(d) if he/she meets the age and service requirements.

**i. Notices**

(1) **General Notice.** When a RIF is initiated, a general letter of notification will be provided to all executives in the affected competitive group by the Deputy Assistant Secretary for Human Resources Management.

(2) **Notice of Release From Competitive Group.** The Deputy Assistant Secretary for Human Resources Management will issue a written notice to any executive released from his/her competitive group.

(a) The basic notice to any displaced executive will include the following information:

1. The proposed action, including its effective date.
2. The reason(s) for the action.
3. The basis for displacing the executive through RIF over other executives in the competitive group.
4. Location of pertinent records and regulations for examination.
5. The executive's appeal rights, including the time limit for the appeal, the address of the appropriate MSPB (Merit Systems Protection Board) regional office, and a copy of applicable MSPB regulations.

(b) Notices to probationary executives, entitled to placement under 5 U.S. C. 3594, will identify the position to which the displaced executive will be assigned and the effective date of the assignment.

(c) Notices to nonprobationary executives will include:

1. A copy of the Secretary's letter to the OPM certifying that there are no vacant SES positions within the department for which the executive is qualified.

2. A summary of OPM's placement responsibilities, including the consequences of declining a reasonable offer.

3. The date of separation from the SES, if OPM's placement efforts are not successful. (Date must be at least 45 days from date of the Secretary's letter discussed above.)

4. A summary of the executive's entitlement to placement under 5 U.S.C 3594. (Identification of the position in which placement is intended and the effective date of the placement is optional)

j. **Appeals.** A career SES employee is entitled to appeal to the MSPB under 5 U.S.C. 7701 whether the competitive procedures were correctly applied. Appeals must be submitted within 20 days of the effective date of the action.

k. **Records.** Records shall be retained 1 year from the date of the RIF action or until any appeal has been resolved.

## **6. DEPARTMENT RESPONSIBILITY FOR PLACING NON VA EXECUTIVES SUBJECT TO RIF**

a. **General.** To assist in the outplacement of displaced Senior Executives, OPM requires agencies to submit quarterly reports on their SES hiring plans. The OHRM will coordinate the preparation of VA's report and will submit it to OPM.

### **b. OPM Referrals**

(1) OPM can place a displaced career executive in a vacant SES position in any agency unless the head of the-agency determines that the executive is not qualified for the position.

(2) No SES position for which a displaced executive has been referred may be filled from outside the SES or from another agency until the executive has been placed or until an objection is filed by the agency head on the basis of the candidate's failure to meet the qualification requirements for the position. The agency head may not delegate this authority

### **c. Agency Placement Responsibilities**

(1) The administration head, Assistant Secretary or staff office director will review the technical qualifications of displaced executives referred for positions in their organizations and prepare a preliminary assessment of whether or not the executive is technically qualified for the position.

(2) If the executive meets the technical qualification requirements, a recommendation to transfer the executive will be prepared. If the executive does not meet the technical qualifications, a response to OPM will be prepared for the Secretary's signature documenting the displaced executive's lack of qualifications. The OHRM will work with the organization in which the position is located to coordinate preparation of these materials.

## **7. FURLOUGH**

### **a. General Policy**

(1) A furlough may not extend more than 1 year. It may only be made when the department intends to recall the executive within 1 year.

(2) If appropriate and practical, the department will consider requests for leave without pay before executives are furloughed.

(3) Furloughs of up to 22 days will be credited towards completion of the SES probationary period.

### **b. Program Responsibilities**

(1) Administration heads, Assistant Secretary and staff office directors will determine when a situation warranting furloughs exists and submit appropriate recommendations in accordance with subparagraph c and d below.

(2) The Deputy Secretary will authorize the initiation of competitive procedures when necessary to identify executives subject to furlough for more than 30 days.

(3) The Deputy Assistant Secretary for Human Resources Management will:

(a) Provide technical advice and assistance on furlough policies and procedures to department officials.

(b) Coordinate application of competitive procedures necessary to identify executives subject to furlough for more than 30 days.

(c) Issue furlough notices to affected executives.

(4) The Secretary or the Inspector General, as appropriate, will approve the furlough of career Senior Executives.

**c. Furloughs of 30 Days or Less.** Career Senior Executives may be furloughed for 30 calendar days or less without regard to competitive procedures. In instances when all the executives in an organizational unit are not subject to furlough, the administration head, Assistant

Secretary or Deputy Assistant Secretary, or office head who reports to the Office of the Secretary will recommend which executive(s) should be furloughed. This recommendation will be based on an assessment of which positions will be critical to the continuing operations of the organization during the furlough.

d. **Furloughs of More Than 30 Days.** Furloughs for more than 30-calendar days shall be made in accordance with competitive RIF procedures described in paragraph 5 of this section.

e. **Notice**

(1) A Senior Executive is normally entitled to 30 days advance written notice of a furlough. The full notice period may be shortened or waived only in the event of unforeseeable circumstances, such as sudden emergencies requiring immediate curtailment of activities.

(2) The written notice shall advise the executive of:

(a) The reason(s) for the furlough;

(b) The effective date and expected duration of the furlough;

(c) The basis for selecting the executive for furlough when some but not all executives in an organizational unit are being furloughed;

(d) The reason if the notice period is less than 30 days;

(e) The place where the executive may inspect the applicable regulations and records; and

(f) The executive's appeal rights, including the time limit for appeal, the address of the MSPB (Merit Systems Protection Board) regional office, and a copy of applicable MSPB regulations.

f. **Appeals.** A career executive who has been furloughed and believes that the applicable civil service regulations and agency policies have not been correctly applied may appeal to MSPB under 5 U.S.C. 7701. Appeals must be submitted within 20 days of the effective date of the action.

g. **Records.** All records of a furlough shall be retained for 1 year from the effective date or until any appeal has been resolved.

## 8. TRANSFER OF FUNCTION

Transfer of function policies apply to Senior Executives only in instances when functions are transferred between agencies. In the event of such a transfer of function, position entitlements of career Senior Executives will be determined in accordance with applicable law and OPM guidance.